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Official Report

MEETING OF THE PARLIAMENT

Thursday 9 October 2014

Session 4

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Scottish Parliament

Thursday 9 October 2014

[The Presiding Officer opened the meeting at 11:40]

General Question Time

Hospitals (Skye)

1. Dave Thompson (Skye, Lochaber and Badenoch) (SNP): To ask the Scottish Government what progress has been made on replacing the two hospitals on Skye. (S4O-03591)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): NHS Highland is considering service change proposals that will affect Skye, Lochalsh and south-west Ross. The board carried out a three-month consultation exercise, which concluded on 29 August 2014.

Following the conclusion of the consultation period, NHS Highland is considering the feedback. The board will then consider all the evidence and make a recommendation on how to proceed. NHS Highland expects that its board will consider the proposals at its meeting on 2 December 2014.

Dave Thompson: I am sure that the cabinet secretary will be aware that NHS Highland is to suspend the endoscopy services that it currently operates on Skye. Given that good progress is being made on planning the new facilities, which will offer enhanced services for Skye, Lochalsh and south-west Ross, does the cabinet secretary agree that, in the interim, all should be done to ensure that existing local surgical facilities continue if at all possible? Can he tell us when the new hospital is likely to be built?

Alex Neil: I have received a copy of Dave Thompson's letter to the chair of NHS Highland on the topic to which he refers, and I will reply in detail in due course.

NHS Highland has stated that it has reluctantly decided to suspend endoscopy service provision at the Mackinnon memorial hospital because the decontamination facilities there are no longer compatible with current standards and are not sufficiently reliable. I will ask NHS Highland as a matter of urgency to provide me with a full report on why that decision has been made and what other options it has considered, and I will be happy to share that report with the member.

NHS Lanarkshire (Meetings)

2. Siobhan McMahon (Central Scotland) (Lab): To ask the Scottish Government when it

last met NHS Lanarkshire and what issues were discussed. (S4O-03592)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): Ministers and Government officials regularly meet representatives of NHS Lanarkshire to discuss matters of importance to local people.

Siobhan McMahon: Can the cabinet secretary outline why NHS Lanarkshire spent nearly £6 million between October 2012 and March 2014 on referring 3,826 patients to the Golden Jubilee hospital and 4,368 patients to Ross Hall hospital, a Nuffield hospital and other private health providers in Glasgow in order to meet the treatment time guarantee? Does that not expose further creeping privatisation in NHS Scotland and highlight that the national health service in Scotland is not safe in the Scottish National Party's hands?

Alex Neil: The member has a bit of a cheek, given that the main budgetary challenge for NHS Lanarkshire is the £50 million a year that it has to pay in private finance initiative charges, which we inherited from the previous Administration.

With regard to privatisation, I have made it absolutely clear that the percentage of money that is spent on the private sector in Scotland is well under 1 per cent of the entire near £12 billion budget. South of the border, the Government is privatising the NHS staffing, estate and facilities, but we are not doing that in Scotland. When we purchase private sector capacity, it is because we do not have sufficient capacity in the national health service in a particular area—for example, NHS Lanarkshire's use of Ross Hall hospital for certain procedures. That is not privatisation; it is topping up our own capacity.

Her Majesty's Revenue and Customs (Employment in Scotland)

3. Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): To ask the Scottish Government what recent discussions it has had with Her Majesty's Revenue and Customs regarding employment in Scotland. (S4O-03593)

The Presiding Officer (Tricia Marwick): That is not the question that I have on my sheet, Mr Hepburn.

Jamie Hepburn: It is the question that I have on mine, Presiding Officer, and it is the one that I lodged.

The Presiding Officer: I offer our apologies—it is my sheet that is wrong. I ask the minister to answer the question as asked by the member.

The Minister for Energy, Enterprise and Tourism (Fergus Ewing): Thank you, Presiding Officer.

No formal discussions have taken place with HM Revenue and Customs. The matter is reserved, but I have written to the UK Government to express our concerns, to highlight our policy of no compulsory redundancies in the Scottish public sector, and to ask what alternative employment options the United Kingdom Government has in place to protect jobs in Scotland.

We will continue to support and assist the redeployment of staff through existing mechanisms, and our directorate officials will liaise with HMRC and monitor the situation.

Jamie Hepburn: I am over my brief confusion, Presiding Officer.

HMRC has suggested that it is going to outsource mailroom facilities at its location in Cumbernauld. That threatens 40 jobs. Of course, that is just the tip of the iceberg, with the Public and Commercial Services union suggesting that HMRC will shed thousands of jobs in coming years. Does the minister agree that that undermines local economies where HMRC is located, such as Cumbernauld, and also undermines HMRC's ability to collect tax?

Fergus Ewing: I am inclined to agree with Mr Hepburn, who has pursued this matter assiduously on behalf of his constituents. HMRC says that it will need fewer people in certain roles across the whole of the UK, including post handling roles. In June, HMRC announced that it will close two of its five regional post rooms by the end of 2014. We believe that its current thinking is that the remaining three, including the one in Cumbernauld, will close by March 2015. HMRC has said that it will be able to tell its staff more by mid-October.

One has to say that that is not a very good way in which to handle staff relations. We in the Scottish Government, who try to treat our public servants with appropriate respect, strongly advocate that the UK Government starts to look a bit more carefully at the way in which it handles these matters and that, in particular, it adopts the no-compulsory-redundancy policy of the Scottish Government.

I am grateful to Mr Hepburn for allowing us an opportunity to make our position clear. I express my concern for his constituents, who face a very uncertain future.

Hybrid Ferries (Low-carbon Targets)

4. Stewart Stevenson (Banffshire and Buchan Coast) (SNP): To ask the Scottish Government how investment in hybrid ferries will contribute to meeting its low-carbon targets. (S40-03594)

The Minister for Transport and Veterans (Keith Brown): The Scottish Government has invested more than £20 million to construct two hybrid ferries, the MV Hallaig and the MV Lochinvar. Mr Stevenson was involved in the project from its early days and cut the first steel for the MV Hallaig in January 2012.

On 29 September, the Deputy First Minister announced that a third hybrid ferry would be ordered from Ferguson Marine Engineering. Those low-emission hybrid ferries, built in Scotland, are helping to contribute to the Scottish Government's targets on cutting climate change emissions, with initial operational experience indicating around a 28 per cent fuel saving and an associated reduction in carbon emissions.

Stewart Stevenson: The announcement of the third hybrid ferry is welcome. I was pleased to be associated with the previous initiatives.

What investment is being made in other forms of public transport in Scotland to ensure that targets on carbon emissions are met?

Keith Brown: The Scottish Government invests more than £1 billion a year in public and sustainable transport to encourage people on to public transport and active travel modes. As I announced yesterday in relation to the new ScotRail franchise, Abellio has committed to a range of carbon-saving initiatives that includes at least 3,500 additional cycle parking spaces, a sustainability innovation fund of £100,000 a year and the installation of electric car charging points in at least 50 station car parks. In addition, Stewart Stevenson will of course be aware that, since 2010, we have invested more than £10 million to support the purchase of 126 green buses.

Duncan McNeil (Greenock and Inverclyde) (Lab): I also welcome the news that the contract for the third hybrid ferry has been awarded to Ferguson's. We hope that that goes through and that everything will be okay there.

How can the Scottish Government market that innovative type of vessel more widely than just to the United Kingdom? Clearly, there is a market for those types of ships beyond Scotland.

Keith Brown: Duncan McNeil raises an important point about the need to exploit this innovative technology as much as possible. The first way in which we can do that is by placing the orders that we have done. We can also do it by operating the vessels ourselves and securing the reductions in fuel consumption and the increases in environmental benefits.

Obviously, there is work to be done in addition to what has already been done to ensure that the market that is out there in the wider world is aware of the potential of the vessels. That would open up

opportunities for Ferguson's and others to produce more of the vessels in future.

Kenneth Gibson (Cunninghame North) (SNP): The minister will be aware that this month Caledonian Maritime Assets Ltd and Caledonian MacBrayne will place a notice in the *Official Journal of the European Union* indicating their plans to order a new Ardrossan to Brodick ferry. Can he confirm that the specification will be for a hybrid ferry, that the contract will be placed next spring and that building the vessel will be well within the capability and capacity of Ferguson's in Port Glasgow?

Keith Brown: I am afraid that I cannot confirm that the specification will be for a hybrid ferry, because we are considering the potential for liquefied natural gas. However, I can confirm that the contract will be placed next spring and that building it will be well within the capability and capacity of Ferguson's in Port Glasgow.

Local Government Budget Savings (Public Safety)

5. Margaret Mitchell (Central Scotland) (Con): To ask the Scottish Government how it is monitoring proposals for local government budget savings to ensure that they have no adverse consequences for public safety. (S4O-03595)

The Minister for Local Government and Planning (Derek Mackay): Councils are accountable to their local citizens for the work they do, and they are of course expected to comply with all legislative and regulatory burdens. Single outcome agreements, which set out agreed priorities for local areas, are progressed by community planning partnerships and provide the framework for community safety partnerships to co-ordinate a joint agency response to community safety issues.

Margaret Mitchell: In that case, does the minister consider that residents who pay their council tax are fully entitled to adequate and safe street lighting and that South Lanarkshire Council's recent proposal to de-energise the street lighting in the evening in Castle Avenue in Bothwell, which is a busy area for joggers, dog walkers and cyclists, cannot be justified on such grounds and could be dangerous?

Derek Mackay: I am not fully aware of the full facts of that local authority's current exercise, but I am happy to explore it. However, I expect the public interest and public health and safety to be clear and foremost in local authorities' minds in making budget decisions and delivering energy efficiency programmes and programmes to decarbonise the energy sector.

Sarah Boyack (Lothian) (Lab): According to the Scottish Government's own statistics, which

were published this weekend, 70,000 posts have disappeared from local authorities since 2008. Is the minister able to tell the chamber how many of those jobs were related to community safety initiatives?

Derek Mackay: I do not have that information to hand, but I know that local government settlements have been fair. Local government would certainly agree with that.

Our fair approach with local government has ensured that it has been able to deliver efficiencies in a way that has not led to the kind of mass redundancies that we have seen south of the border, and those fair settlements will ensure that local government is equipped to continue to deliver the quality services that we all expect.

Men's Health Forum Scotland 10K Event (Funding)

6. Patrick Harvie (Glasgow) (Green): To ask the Scottish Government whether it is aware of the lack of funding affecting the men's 10K event in Glasgow run by the Men's Health Forum Scotland and what it can do to secure the future of the event. (S4O-03596)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): The Scottish Government recognises the importance of promoting men's health, which is why we provided more than £500,000 to Men's Health Forum Scotland between 2007 and 2012.

I understand that there have been issues in securing funding for the 2015 Glasgow men's 10K event. Such events can be a fun and visible way of promoting causes such as better men's health, but it is essential that they are sustainable as well as successful. The Scottish Government provides funding to jogscotland, which provided expert advice and support to Men's Health Forum Scotland in marketing the 2014 event and organising the associated 5K run.

Patrick Harvie: I should declare an interest as someone who has participated in the 10K event for the past few years, along with thousands of other men, the vast majority of whom say that their participation in the event has encouraged them to be fit, healthy and active all year round, not just for the event itself.

After the incredible year that elite sport has had in Scotland, surely it would be a disaster if, on what would be this event's 10th anniversary year, it ceased to exist. I urge the cabinet secretary to explore any options with contact organisations or other potential partners that could secure a future for this event.

Shona Robison: Good for Patrick Harvie for taking part and setting a good example—well done.

On the event next year, jogscotland has been in discussions with the organisation. I am happy to ask my officials to work with jogscotland in exploring with the organisation what options could allow the 2015 event and future ones to happen. However, the events have to be sustainable, and the organisation has to look at its business case. On-going discussions on that have taken place with jogscotland, but I am happy to ask my officials to meet jogscotland and the organisation to see whether anything more can be done to get the event happening next year.

Council Tax Reduction Scheme

7. Gil Paterson (Clydebank and Milngavie) (SNP): To ask the Scottish Government how many people have been supported by the protection of funding for the council tax reduction scheme. (S4O-03597)

The Minister for Local Government and Planning (Derek Mackay): According to official statistics that were published on 30 September 2014, 537,730 people in Scotland are currently supported in meeting their council tax liabilities through the council tax reduction scheme.

Gil Paterson: I welcome the measures such as the council tax reduction scheme that the Scottish Government is putting in place to help those in Scotland who are paying a heavy price for the United Kingdom Government's welfare reforms. Does the minister share my concern about George Osborne's freeze on in-work benefits and the impact that it will have on the working poor in Scotland? Does he agree that the Smith commission needs to deliver control over welfare?

The Presiding Officer: The supplementary was a bit broader than the original question.

Derek Mackay: The attacks on working people this time from the Tory UK Government are of concern. We agree essentially with the point that, to tackle poverty and protect citizens from future cuts, we require the powers to do so, and we will of course make that case to the Smith commission.

Gambling (Devolution of Powers)

8. Stuart McMillan (West Scotland) (SNP): To ask the Scottish Government what its position is on powers relating to gambling being devolved. (S4O-03598)

The Minister for Local Government and Planning (Derek Mackay): During the referendum campaign, the Government identified the advantages of the Parliament making decisions on

gambling. Many of those advantages would also be realised by devolution of powers on gambling in the planned Scotland bill.

The Government will play a full part on the Smith commission and will argue for extensive devolution of further substantial powers to Scotland, in line with the vow that was made by the United Kingdom parties during the campaign.

Stuart McMillan: The minister will be aware of the active campaign that I have been running in relation to fixed-odds betting terminals, which has included a members' business debate in the Parliament earlier this year. Does the minister agree that gambling powers should be devolved to the Scottish Parliament in order to allow for the creation of gambling legislation that is in line with town centre planning policy and for action to be taken in Scotland in a way that currently is not happening across the UK?

Derek Mackay: Yes, I do. I commend Stuart McMillan's work on the issue. To realise the aspirations of many members across the parties in the Parliament and of our partners in local government and other stakeholders, we require powers on gambling. We will make that case to the Smith commission, so that we can realise the aspirations to tackle some of the problem gambling that is experienced in Scotland.

Property Factors (Scotland) Act 2011 (Effectiveness)

9. Maureen Watt (Aberdeen South and North Kincardine) (SNP): To ask the Scottish Government what its position is on the effectiveness of the arrangements relating to the Property Factors (Scotland) Act 2011 and their operation. (S4O-03599)

The Minister for Housing and Welfare (Margaret Burgess): The Property Factors (Scotland) Act 2011 sets minimum standards for the property management industry and provides protections for home owners who use the services of a property factor. The act requires the Scottish ministers to maintain a register of property factors. It requires each factor to be registered with ministers and to abide by a statutory code of conduct. The Scottish Government has put in place arrangements that enable ministers and property factors to comply with their duties under the act.

Maureen Watt: Does the minister believe that there is any flexibility in the system regarding land-owning property factors to allow the owners on a new housing estate to decide on the ownership and maintenance of the green space?

Margaret Burgess: The Title Conditions (Scotland) Act 2003 contains provisions on the dismissal and replacement of factors, although we

are aware that there are potential difficulties in relation to land-owning maintenance companies. Following the Justice Committee's report last year into the effectiveness of the 2003 act, the Scottish Government is preparing a voluntary code of practice on the dismissal and replacement of land-owning maintenance companies. We intend to consult key bodies on a draft of the code shortly, and we will keep the member up to date on that.

The Presiding Officer: Before we move to the next item of business, members will wish to join me in welcoming to the gallery His Excellency Mr Pasquale Terracciano, the ambassador of Italy to the United Kingdom. [*Applause.*]

First Minister's Question Time

12:00

The Presiding Officer (Tricia Marwick): The next item of business is First Minister's question time—[*Interruption.*] We have a number of guide dogs in training in the gallery today. [*Interruption.*] You are very welcome. [*Laughter.*]

Engagements

1. Johann Lamont (Glasgow Pollok) (Lab): I hope that you will be as kind to me, Presiding Officer.

To ask the First Minister what engagements he has planned for the rest of the day. (S4F-02316)

The First Minister (Alex Salmond): It is appropriate to mark that we have all been saddened by news of the death of Angus Macleod, one of Scotland's most experienced political journalists. He will be missed by members across the chamber and by his colleagues in the press corps, and our condolences go to his family and friends at this sad time.

Johann Lamont: I agree whole-heartedly with what the First Minister has said. We have lost a true friend of Scotland and a man who was able to capture in such wonderful terms the politics of our country. Indeed, his humanity was known to us all.

Is it true that Abellio, which has won the right to run Scotland's railways, was more expensive for Scotland's taxpayers than other bidders were, as has been reported in the press? If so, how much more is the deal costing the people of Scotland?

The First Minister: No. It was by some distance the best-value bid for running Scotland's railways. It offers a substantial number of advantages, and Scotland will see the benefits over the franchise period.

Of course, it is not just members of the Government who assessed the bids and have been impressed by Abellio's bid. Jenny Marra, the North East Scotland MSP, said:

"I was impressed they had taken the trouble to meet me. They had done their research and had recognised we were running this campaign and they were the only franchisee who had got in touch about our campaign. That gives me encouragement."

In terms of the proper assessment of the bids and the widespread support and encouragement that Abellio seems to have managed to generate, I think that we can look forward to improved terms for Scotland's railways and, in particular, improved terms and conditions for the staff working on Scotland's railways.

Johann Lamont: That was a yard-long answer, but it did not answer the question that I asked the First Minister, which was: is the deal costing the people of Scotland more? We got a lot of words, but we did not get an answer.

We know that “price is extremely important” and that

“We live in extremely straitened times in terms of the public finances and it’s our responsibility to make sure we get value for money”.

Those are not my words but those of Keith Brown, the Minister for Transport and Veterans, speaking on 20 March 2012. He does not seem to have applied the same rules.

The Government says that the deal will involve new rolling stock, but, other than the new trains already promised for the Glasgow to Edinburgh route, when Abellio talks about new trains, does it really mean new rolling stock, or does it mean refurbished trains, some of which may be decades old?

The First Minister: The new trains between Edinburgh and Glasgow and the completion of the Edinburgh to Glasgow improvement programme are actually rather important for the commuters who go between Edinburgh and Glasgow. The refurbishment of the trains and rolling stock is vital for commuters across Scotland.

In terms of value for money, I point out what we can expect from the new contract. We can expect faster services between all our cities, with journey-time savings of up to 12 minutes between Edinburgh, Glasgow, Perth and Inverness. We can expect proper high-speed diesel trains between the central belt and Inverness and Aberdeen, linking all our seven cities, with free wi-fi, increased comforts, galley and all-seat catering and more luggage space. We can expect new electric trains between Edinburgh and Glasgow, which Johann Lamont does not seem to think are very important but which I think are absolutely vital. We can expect new trains in the central belt, new stations across Scotland and more capacity on our trains, with a 20 to 24 per cent increase in seats on peak-time services, which is particularly vital.

Those are the characteristics that decided the bid and the franchise in Abellio’s favour, but I must say that I am impressed by the offer and the commitment to ensure that the living wage is paid to all rail staff. As Johann Lamont knows, this Government introduced the living wage in the public sector in Scotland, so to have a commitment to extend the living wage not just to direct railway staff but to subcontractors such as cleaners and catering staff is a substantial enhancement of delivery in Scotland. In terms of customer satisfaction and usage, and in terms of

treating the staff on our railways with respect, that to me is a considerable advance.

Johann Lamont: Maybe the First Minister can get back to me later on the question that I asked him.

The Government had it in its own hands to make sure that every worker benefiting from a public sector procurement offer would receive the living wage—if it had only had the courage of its convictions. Instead, we have had cheap words but not action.

The First Minister may not be aware that this great company that we are being told about came 18th out of 18 in a survey by *Which?* in which concerns were expressed about cleanliness and value for money.

Mick Whelan, the general secretary of the train drivers union ASLEF, said of the deal:

“It’s a particularly perverse decision by the SNP government in Scotland, which was arguing for independence, and is getting many more devolved powers”—

Members: When?

The Presiding Officer: Order. It is Ms Lamont who is asking the questions.

Johann Lamont: I am quoting Mick Whelan, the general secretary of the train drivers union ASLEF, who said that it was a

“particularly perverse decision ... to embrace privatisation and all that means rather than wait a few months, take a fresh look at the opportunities for rail services in Scotland, and then, instead of acting in such a precipitate fashion, make a considered decision next year.”

Will the First Minister tell me which part of that statement is wrong?

The First Minister: Here is a little bit of history. The Labour Party had the opportunity, when in government and looking at the railway legislation, to give the Parliament the power to introduce public sector bids from this country for the railways, but it refused to do so. Throughout the term of office of this Government, the Scottish Government has consistently requested that that power be transferred to this Parliament so that we can effect it.

However, in the current situation—and if we are to believe the vow, which requires the guarantee of a mass petition of the people of Scotland for its delivery—the transfer of that power, which is now supported by the Labour Party, although it did nothing about it in government, but is opposed by its friends and colleagues from the better together alliance in the Conservative Party, would take at least five or six years to be brought into legislative operation. Over that period, the ScotRail franchise would have to be extended, along with the profits

for that franchise that some Labour members have been complaining about in recent times.

Johann Lamont's position seems to be that we should hope that the powers will be transferred, despite the fact that her friends and colleagues in the Conservative Party do not agree with that, and that, in the meantime—for the next five or six years—we should extend the current franchise, with all its inadequacies, as opposed to getting better terms and conditions for the railway staff of Scotland and better services for the people of Scotland. If this is the relaunch of the Labour Party, I think that it is going to reach the end of the tracks very soon indeed. [*Applause.*]

The Presiding Officer: Order.

Johann Lamont: I saw what the First Minister did there. That was really funny.

On the matter of asking for those powers, the First Minister should reflect on the fact that, although he made six key demands of the Scotland Bill as the UK Government went through the Calman process, not one of those demands was about the railways, so he should not pretend that that was something that he was concerned about.

The First Minister's answer seems to be simply that there is nothing that he can do. As power seeps from him, the First Minister wants more powers but still spends his life telling us what he cannot do.

Why could the First Minister not wait for a few months and look at how we, with his successor, could improve Scotland's railways? Why choose a deal that is more expensive for Scotland? Why settle for decades-old trains? Was the general secretary of the National Union of Rail, Maritime and Transport Workers, Mick Cash, not right when he said:

"All you're seeing in private ownership is that money's being sucked out of the industry and given to the private sector shareholders, or in this case is going to go to subsidise the Dutch railways?"

Why is the First Minister spending his last days in office selling out Scotland, rather than standing up for Scotland?

The First Minister: It would not be a few months; it would take five years to bring the powers from Westminster to Scotland and put them into operation to conduct a new franchise process.

Johann Lamont would have to persuade her Conservative friends, colleagues and allies in the better together campaign to support her. I do not know whether she ever said during the better together campaign, "Can we not unite Conservative and Labour in transferring power over the railways to Scotland?" We want that

power to transfer. Keith Brown has written three times to the United Kingdom Government asking for that power to be transferred—[*Interruption.*]

The Presiding Officer: I ask members to settle down, please.

The First Minister: During the long years of Labour Government, the power did not get transferred. It is so dramatically important that Johann Lamont did not even mention it in her relaunch speech last night.

In addition to the improved terms and conditions for the staff, which I think are so important in terms of the solidarity of this country, we have got from the contract improved terms and conditions for the railway passengers of Scotland, as I have laid out in very considerable terms. That improved and enhanced railway service seems to be a good deal. It is a better deal than waiting and hoping that Johann Lamont's friends and allies in the Conservative Party are suddenly going to have a transformation and agree with us that that power should come to Scotland so that we can have not-for-profit or public sector bids from Scotland as well as public sector bids from the Netherlands.

In the meantime, we will get on with the job of running Scotland's railways, expanding passenger numbers, enhancing services, reducing fares and ensuring that the staff of our railways have a better future under the new contract.

Secretary of State for Scotland (Meetings)

2. Ruth Davidson (Glasgow) (Con): I add my condolences and those of my party to the family of Angus Macleod, who wrote with a clarity and a humanity that added hugely to the political life of Scotland.

To ask the First Minister when he will next meet the Secretary of State for Scotland. (S4F-02317)

The First Minister (Alex Salmond): No plans, near future.

Ruth Davidson: Last week, the First Minister got caught out pretending that the Commonwealth games was the reason why his Government had cut health spending in Scotland. Despite that being exposed as arrant nonsense, the First Minister has continued to claim that, over the past five years,

"National health service spending in Scotland has increased in real terms".—[*Official Report*, 2 October 2014; c 14.]

Does he still hold that view?

The First Minister: Our commitment has always been to resource spending. That was the commitment in our manifesto, and every single penny of consequential has been devoted to the national health service in Scotland. That is why, in

spite of the 7.2 per cent real-terms Westminster cut, we have ensured that NHS Scotland revenue will increase by 4.2 per cent in real terms over the period 2009-10 to 2015-16. That is a very considerable achievement in the face of the draconian cutbacks from Westminster.

Ruth Davidson: After last week's First Minister's questions, I decided to double-check whether, as the First Minister has just said,

"every single penny of consequentials"

has indeed been passed on. This time, we double-checked with the Parliament's own independent and impartial information centre. Guess what? Looking at health spending over the past five years, it concluded that the figures show a drop in spending

"equivalent to a 1.2% fall in the health budget in real terms".

That is hundreds of millions of pounds.

The analysis also notes that the figures "do not include sport", so the First Minister's Commonwealth games excuse is rubbish, and it has been shown to be rubbish twice.

The independent Institute for Fiscal Studies says that the First Minister has cut health spending in real terms. The independent Scottish Parliament information centre says that he has cut health spending in real terms. The First Minister has got it wrong, and his Cabinet Secretary for Health and Wellbeing has got it wrong. Everyone can see that they have got it wrong, and hundreds of millions of pounds that they promised to Scotland's NHS have never been delivered. Will the First Minister finally set the record straight and just admit it?

The First Minister: Actually, it is Ruth Davidson who has it wrong. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: This is from the 2011 SNP manifesto, on page 14:

"We recognise that if we want to have a first-class health service in Scotland the resources need to be there. That is why we have guaranteed that the revenue budget of the Scottish NHS will be protected in real terms."

We have never expressed it in anything other than the resource budget. The mistake that the IFS made was to include resource and capital, which is not the commitment that we gave.

There is a very simple reason for that. The capital budget has been slashed by Westminster. Therefore, we have devised a new mechanism—the non-profit distribution mechanism—to ensure that we can continue to invest in the infrastructure of the NHS in Scotland. We now find out that the IFS forgot to include NPD spending in its analysis, which is quite important, given that the amount,

through the hub and NPD, will be £380 million in the next financial year alone.

Now that it has been explained to Ruth Davidson that the mistake that the IFS made was not to include NPD spending, I am sure that she is reassured that, unlike south of the border, the NHS in Scotland is in safe hands. Why do we know that it is not in safe hands south of the border? In

"The NHS timebomb letter: 'NHS and social care services are at breaking point. It cannot go on'"

we see that every area of the NHS in England is writing to the Prime Minister, pointing out the consequences of Tory policies: not just the extraordinary pressure on health service budgets, which we have in Scotland as well, but, as they put it, the "top-down reorganisation" that has dismayed staff and fragmented the health service in England.

That is why the NHS is safe in public hands in Scotland—there is a commitment to expenditure and a commitment, above all, to an NHS that is safe in public hands in Scotland.

The Presiding Officer: We have a constituency question from Rob Gibson.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): To ask the First Minister for an update on the reported fire aboard the MV Parida in the Moray Firth while it was carrying nuclear waste from Scrabster to Antwerp, which led to it drifting dangerously and to it subsequently requiring towage to sheltered waters for repair yesterday, and to ask what lessons must be learned.

The First Minister: First, there was no release of radioactivity. The radioactive waste was in cement, high-quality containers and therefore there was no release of radioactivity—as far as we can determine—from the incident, so people should be reassured about that.

The member is, however, right to focus concern on the incident. The MV Parida had a funnel fire in the Moray Firth around 8 pm on Tuesday evening and subsequently drifted for some hours. The Beatrice oil platform had to be evacuated as a precaution, although the vessel's anchor slowed its drift. The Parida was carrying a load of radioactive waste that was being returned from Dounreay to Belgium. A tow took the Parida to safe anchorage in the Cromarty Firth on Wednesday morning.

The concerns that the incident raises are obvious. It was Scottish Government authorities that had to co-ordinate to ensure that the incident was safely addressed, but unfortunately the Office of Nuclear Regulation had not had sufficient

consultation with those authorities before the incident took place.

It is signally unsatisfactory to find that boats carrying consignments of nuclear waste have to wait for a weather window in October in the North Sea in order to carry out their trip. It is also of significant concern that an apparently minor incident on a boat of that kind can result in it being totally without power—as is, obviously, the consequence of the evacuation of an oil platform.

Therefore, the whole chamber should unite in looking for the devolution of the relevant authority, to ensure that Scotland has the power not just to handle such incidents but to ensure, as far as possible, that they do not occur in the first place.

National Child Abuse Investigation Unit

3. Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): To ask the First Minister what the Scottish Government's position is on Police Scotland's national child abuse investigation unit. (S4F-02321)

The First Minister (Alex Salmond): We welcome that positive move by Police Scotland. The new national child abuse investigation unit will provide specialist investigative resources to lead or assist with complex or high-profile child abuse investigations. The unit will allow Police Scotland to work in a more structured way on child abuse that is not confined by geographical boundaries. The unit also demonstrates a clear commitment to child protection.

Christine Grahame: Grooming is often a precursor to abuse and sexual abuse but is often only detected once that subsequent sexual crime is committed. Is the First Minister aware that if a child is groomed in Scotland and the resulting sexual offence or abuse takes place outwith the United Kingdom, for example in France, that crime and the grooming can be prosecuted here, but that if the abuse takes place anywhere else in the UK, only the grooming can be prosecuted here? The Lord Advocate has raised concerns about the matter and the Cabinet Secretary for Justice has advised that the Government is considering legislation to end that lacuna. Can the First Minister provide any further detail on when legislation might be introduced, so that both crimes can be prosecuted here?

The First Minister: Yes, I can. The member raises an important issue about how our justice system can deal with child sexual offences. However, it is important to remember that the situation does not mean that sexual offences against children cannot be prosecuted. That said, the member is correct that such cases can only be prosecuted in the part of the UK where the offence was committed. For example, an offence that is

committed in England can only be prosecuted in England and such offences cannot, by law, be prosecuted in Scotland.

The Scottish Government ministerial working group on child sexual exploitation, which reported earlier this year, considered that there is a case for extending the extra-territorial effect of sexual offences against children to include offences committed elsewhere in the United Kingdom, so that they can be prosecuted in Scotland if that is the best place to conduct the prosecution. The Scottish Government agrees with that recommendation. We intend to introduce legislative change when there is a suitable legislative opportunity.

Graeme Pearson (South Scotland) (Lab): I, too, welcome the introduction of the new unit, particularly its responsibility, along with the Crown Office and Procurator Fiscal Service, for prevention. In that light, will the First Minister reconsider the decision not to have a public inquiry into historical child abuse, as such an inquiry would gather evidence that would help in the unit's preventative efforts?

The First Minister: We should concentrate on the unit and its investigatory role. The important thing about the unit is that it is not there just to investigate and prevent future child abuse; it is also there to investigate historical child abuse. Therefore, a unit is being formed in Police Scotland with the appropriate expertise to progress any legitimate inquiry.

Assistant Chief Constable Malcolm Graham provided very good evidence when he appeared before the Justice Committee on 7 October. In recent days, he has clarified and laid out in substantial terms how the unit will perform. It will draw on existing resources across the country and have that continuity; it will be fully up and running by the end of the year; it will take a similar approach to the national rape task force, which has seen specialist officers brought in and rape investigations put on a par with those into murder; and it will allow Police Scotland to work in a fundamentally more structured way in relation to child abuse, which will be helpful. I know that the unit, and the seriousness with which Police Scotland takes the matter, will be supported across the chamber.

Mental Health Issues (Stigma)

4. John Mason (Glasgow Shettleston) (SNP): To ask the First Minister what action the Scottish Government is taking to tackle the stigma surrounding mental health issues. (S4F-02319)

The First Minister (Alex Salmond): Tackling mental health stigma has been for many years, and continues to be, a Scottish Government

priority. One of the seven key themes of our mental health strategy is:

“Extending the anti-stigma agenda forward to include further work on discrimination”.

See me, which was founded in 2002, was internationally recognised as a groundbreaking campaign. In November 2013, we built on that good work and launched a refunded programme jointly with Comic Relief with investment of £1 million from the Scottish Government and £500,000 from Comic Relief. That is three times the original funding in 2002.

The refunded programme will focus on the areas in which people say that they are experiencing the most stigma and discrimination, including in work, health and social care settings. It will directly involve people who have lived through the experience of mental health problems and thereby become a true movement for change.

John Mason: I came across a considerable reaction from a minority of the community in my constituency when it was proposed to open a care home for people with mental health issues, which showed that stigma was still alive. Will the First Minister commit his Government to making mental health and education about it a priority area until we overcome stigma?

The First Minister: Yes. I hope that the answer that I have just given assures John Mason that that is, and will continue to be, the case. We acknowledge that much work is yet to be done, but I think that the refunded and refounded see me programme gives encouragement that that is the intention, which will be carried forward.

Jim Hume (South Scotland) (LD): Will the First Minister and his Government match—on a per capita basis, of course—not just the extra £400 million that is being invested in the national health service south of the border to tackle mental health, but the extra £120 million to tackle mental health that was announced this week?

The First Minister: I will check the figures, for the benefit of the member. A record amount is being spent on the approach to mental health in the Scottish national health service. I have just pointed out that the programme about which John Mason asked is now funded to three times the original level in 2002.

Rather than have an argument about the exact figures, let us just unite to say that mental health has to be a key priority in the national health service in Scotland, and let us go forward on that basis.

ScotRail (Profits)

5. James Kelly (Rutherglen) (Lab): To ask the First Minister what the Scottish Government’s

response is to reports that ScotRail has recorded nearly £100 million in profit since 2008, with £95 million of that being paid to shareholders. (S4F-02326)

The First Minister (Alex Salmond): I have to confess to James Kelly that the Scottish Government has followed to the letter the legally binding franchise agreement that we inherited in 2007 from the Labour Party, under which we are required to make franchise payments to First ScotRail.

James Kelly: The Abellio model is one to which Scotland should aspire: a publicly run transport body that is able to bid for business all over Europe. Now that the Scottish Government has committed to a £6 billion, 10-year contract, through which profits that are generated by Scottish rail passengers will be invested in Dutch public transport, how does the First Minister intend to progress an agenda that will promote public railways in Scotland, allow a public bid in future and export Scottish services abroad?

The First Minister: By doing what we have done consistently over the years—that is, by demanding that the powers be transferred to this Parliament to allow us to do so.

I do not quite understand James Kelly’s tactics on this matter. I have already said to Johann Lamont that it could take five years to bring into being a new contract. There is, of course, a break clause in the contract that we have just negotiated, at five years, so we can hope in future to make sure that the contract does what we think that it can do.

To bring about his wish for substantial change, James Kelly called—I think in a parliamentary motion—for us to suspend the contract negotiations in the last week or two. If we had done that, it would have cost perhaps £30 million—[*Interruption*—well, on the basis of the west coast contract suspension costing £55 million, in compensation to the contract bidders. I am not sure whether that is what James Kelly wanted to happen.

Even more interesting are James Kelly’s tactics on what would happen in the meantime, while we waited for the powers to be given to Scotland. His argument was that we should extend the ScotRail contract. James Kelly’s strategy, as he gets furious about the profits of First ScotRail, is to extend the contract to those disgraceful capitalists over a number of years, and in the meantime have a lesser service for the people of Scotland.

Last week I wondered whether there would be changes on the Labour Party front bench in the imminent future. With such talent on the back benches, it is only a matter of time before we have a wholesale change of timetable.

Accident and Emergency Departments (Overcrowding and Understaffing)

6. Murdo Fraser (Mid Scotland and Fife)
(Con): To ask the First Minister what the Scottish Government is doing to tackle overcrowding and understaffing in accident and emergency departments. (S4F-02325)

The First Minister (Alex Salmond): The Scottish Government supported the creation of local unscheduled care action plans for each health board, to determine steps that each accident and emergency unit should take to improve performance, including examining patient flow through hospital, beyond accident and emergency itself. In August, we targeted an additional £5 million at helping to address patient flow in a number of hospitals.

The most recent figures that we have—from June 2014—show that the performance of major accident and emergency departments was at 93.2 per cent in Scotland, 92.8 per cent in England, 85.3 per cent in Wales and 75.1 per cent in Northern Ireland. That is not what we want to see, because we want to get to the 95 per cent target, but we are doing relatively well in comparison with what is happening elsewhere in these islands. Of course, another pertinent comparison is with the 87.5 per cent that the then Minister for Health and Community Care, Andy Kerr, hailed in 2006 as a magnificent achievement.

It seems that, under huge funding pressure, accident and emergency departments throughout Scotland are performing not only better than their colleagues elsewhere in these islands, but significantly better than they did back in the dark days of 2006 when the Labour Party was in charge in Scotland.

Murdo Fraser: I thank the First Minister for his response and reassure him that Mr Andy Kerr is nothing to do with me.

Following on from the comments on Monday of Dr Martin McKechnie—who is the new chair of the College of Emergency Medicine—that A and E departments were dangerously overcrowded and struggling with fewer doctors, and those of the medical director of NHS Grampian, who said last week in the Parliament that Scotland had fallen behind the rest of the world on incentives to keep medical practitioners, what is the Scottish Government doing to ensure that doctors working in A and E are retained and what is it doing now to ensure that those departments are adequately staffed?

The First Minister: I am glad that Murdo Fraser cited Dr Martin McKechnie, because he has been foremost in praising the action that the Scottish Government has taken. I will quote him exactly:

“there is a feeling within the speciality that there is a turn in how things are in terms of care of patients within the emergency department environment. We have had a lot of support and investment in the last 18 months from the government. And we are beginning, I hope, to feel and to see the effects of some of those changes.”

While acknowledging the huge pressure on our national health service, Martin McKechnie also acknowledges the efforts of the Government to cope and deal with that vast increase in the number of patients and to treat people successfully and safely.

That brings me to the comparison with what is happening south of the border. There, the national health service and social care services are at breaking point. The range of specialties south of the border—not only in accident and emergency, but in every area of medicine—wrote to the United Kingdom Government and, indeed, to the Opposition leaders at Westminster pointing out those things and that the very last thing that the health service needs is another top-down reorganisation causing chaos and dismay among health service staff. They will certainly not get that in Scotland. They will get encouragement and support so that we can continue to build our national health service in public hands.

Lewis Macdonald (North East Scotland)
(Lab): Does the First Minister agree with Dr Roelf Dijkhuizen, the outgoing medical director of NHS Grampian, who said this week that consultants in emergency medicine want to practise their skills in trauma and resuscitation, not spend their time dealing with minor illnesses and injuries? Does he accept the point that Dr Dijkhuizen was making that the recruitment crisis in A and E will not be resolved until primary care and general practitioner services are adequately resourced in Grampian and everywhere else?

The First Minister: Oh, I certainly agree with the outgoing medical director that there has been an historic imbalance in funding for NHS Grampian compared with Scotland as a whole. That is why, when we came to office, the funding of front-line services in Grampian was—if my memory serves me correctly—9.1 per cent of the Scottish total but is now heading towards 9.6 per cent. In other words, the historical imbalance from the Arbutnott formula, which we inherited from the Labour Party, has now year by year been closed so that, at last, Grampian and the people of the north-east of Scotland can look forward to a health service that is funded fairly and properly.

Of course, the legacy of Lewis Macdonald's colleagues in the Labour Party left the Grampian health service underfunded in the past. Thank goodness, under the current Cabinet Secretary for Health and Wellbeing, that disparity is being sorted out and we can look forward to the future with confidence.

Voting Franchise (16 and 17-year-olds)

The Deputy Presiding Officer (John Scott): The next item of business is a members' business debate on motion S4M-10990, in the name of Christina McKelvie, on the voting franchise for 16 and 17-year-olds. The debate will be concluded without any question being put.

Motion debated,

That the Parliament acknowledges the recent petitions to extend the voter franchise to all 16 and 17-year-olds in all elections; understands that, during the Scottish independence referendum in the Hamilton, Larkhall and Stonehouse constituency area, 16 and 17-year-olds were highly visible in attendance at political debates and activity on both sides of the campaign; welcomes this contribution, which, it believes, demonstrates their willingness to become involved and take full part in the political process, and notes calls for the UK Government to amend the voting franchise to include all 16 and 17-year-olds in future Scottish and UK Parliament elections.

12:35

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): It is a great honour to lead today's debate, but I have certainly not been leading the debate on the voting franchise for 16 and 17-year-olds for as long as some members have been—I know some have been leading it for many years. I say a huge thank you to my colleagues from across the chamber who signed the motion to allow it to be debated. I lobbied some of them, and I really appreciate their support.

I also thank the young people who have petitioned and worked hard on the issue and who have taken part in democracy. I pay particular tribute to the Scottish Youth Parliament, which has run its votes at 16 campaign for many years. There have been many petitions over the years, many of which we have signed. I also pay tribute to a constituent of mine, Mr Max Cruickshank, who has worked alongside the Scottish Youth Parliament and has been youth worker for many years—he has always backed the votes at 16 campaign.

It has always been our party's policy to be committed to votes at 16; I remember debating it many decades ago. As a Government, we have applied that to the very limited areas over which we have control. It was a great delight to see the Edinburgh agreement set out that, for the referendum that we have just experienced, 16 and 17-year-olds would have what is a very important civic duty and responsibility. Some voices were cynical about the ability of our young people to participate in the referendum debate, but those

voices were certainly silenced. They got it very wrong.

John Mason (Glasgow Shettleston) (SNP): Some 16 and 17-year-olds were a bit doubtful about whether they knew enough to vote, but those same people have come to me since the referendum and said, "Yeah, we got it right." Has the member found that, too?

Christina McKelvie: Absolutely. I have a few anecdotes of my own about some of the many hundreds of young people I have spoken to over the past wee while.

There is no way of predicting voting patterns in an untested group—that was something of an unknown quantity for us all. It was a bit of a leap into the dark, which is the phrase that Disraeli used when the franchise was extended under the representation of the people legislation. That came into play on 18 September, when it was again a leap into the dark.

John Mason has just referred to the fact that there was some doubt among young people themselves. It took a century for voting rights to be extended from a tiny minority of property-owning men over the age of 30 to universal suffrage for every adult aged 18, regardless of wealth, property, class, employment or location. Some 3.6 million inhabitants of our small, amazing country turned out to vote in the referendum, 109,533 of whom were 16 or 17-year-olds, so I think that many of those doubts were blown away by the time it came to referendum day.

The future of Scotland does not lie exclusively in the hands of the older generation. We would like to think that it does, but I know that, during the referendum, all my colleagues who are present will have had amazing conversations with young people, who, in some cases, even stumped me with their knowledge and their aspirations for their country. Those young people will build their lives, families and careers in this country, and they will eventually enter old age here. Democracy is not just a snapshot in time for them—it is a process, an evolution and a constantly changing arc of responsibility. To work successfully, democracy must respond to those shifts in society so that it reflects the demands that are made on it. Today, we are taking that issue very seriously.

The First Minister has said that 16 and 17-year-olds have shown themselves to be

"serious, passionate and committed citizens"

and that there is an

"overwhelming, unanswerable"

case for giving them the right to vote in all future United Kingdom and Scottish elections.

As I said, I have been enormously impressed by the teenagers with whom we have debated and discussed the question of independence and the future of Scotland. Campaigning around my constituency in Hamilton, Larkhall and Stonehouse, I met hundreds of 16 and 17-year-olds who had become seriously engaged in politics because the referendum vote and their part in it became so important to them.

One day, we had a yes hub in the centre of Hamilton, and a group of 15 young people came along in their lunch break from Hamilton grammar school. None of them had made up their mind about how they were going to vote in the referendum and they all had ideas about what they would do. It was a nice sunny day, and we stood in the street and had a debate about the powers that Scotland should and could have.

One of the most endearing and amazing sights, which will remain in my memory for all time, was the sight of those kids walking along the road, armed with all the bits of information—they were going up the top cross to see the better together people and do the same with them—talking about nuclear weapons, pensions, childcare and their standing in the world. One person was saying, “But could we move nuclear weapons safely?”, and another was saying, “No, I don’t think so.” That kind of debate took place in every street in every part of Scotland, and no more so than among our amazing young people. They took that great leap. I am sorry to mention it—except I am not sorry to mention it—but the membership of my local branch is now huge and populated by many of those young people, some of them as young as 14.

It is not because of the precedent set by the Scottish referendum that the law needs to be changed; it is because getting young people engaged and involved in their future is a fundamental tenet of democracy. Young people demand that engagement—none more so than my 16-year-old son, who this time last year would never have thanked me for a political conversation, never mind a debate. He got so engaged in the referendum that he was up at 7 am, knocking on my door, saying, “We need to go and vote.” I do not think that I had any influence on how he voted, because he is a very strong-willed young man, but he had made up his mind and has become very involved. I think that I have created a bit of a monster. He watches every debate and critiques me on it. I do not know whether that is a good thing.

With the extension of the franchise, Scotland can be a beacon to the rest of the UK. For once, let the UK Government accept that we were right. We have proven it. Our young people have proven it. It is now time to give every 16 and 17-year-old

the same right as anyone else to decide directly who governs them.

It is good for every political party and it is good for democracy. I ask my colleagues throughout the chamber, the young people who have all arrived in the public gallery—*[Interruption.]*. That is bad, Max; you are not allowed to applaud. We can see enthusiastic support from the public gallery. I ask the Scottish Government to use every means, including the Smith commission, to ensure that there are votes at 16 for every young person in the UK.

12:43

Kezia Dugdale (Lothian) (Lab): I congratulate Christina McKelvie on securing the debate, and I note her long-term commitment to the issue. Like her, I have supported votes at 16 for a long time.

There is a need for much wider political and electoral reform on a number of issues. I am grateful to Christina McKelvie for her recent support for a campaign that I am involved in—women 50:50—which is about ensuring that all future sessions of this Parliament are balanced 50:50. At least four other members who are now in the chamber have shown their support, and I would encourage my colleagues to do so, too. The moment is now.

On the issue of votes at 16, I cannot believe, looking back, that it was ever viewed as controversial. As Christina McKelvie touched on, it seems the normal and right thing to do to give young people a voice. Christina McKelvie reflected on some of her experiences of the referendum campaign. I remember doing one street stall in the east end of Edinburgh. At about 3 o’clock, the school tipped out and we were overtaken with secondary 5 and 6 pupils from Portobello high school, desperate to ask some hard questions about the currency—“Ah, but what about X, Y and Z?”—so much so that we blocked the road. A few people on Twitter highlighted the health and safety hazards that we had created, and it all got a bit dramatic for a second.

I participated in dozens of other hustings. Without a doubt, the most invigorating were those for young people. For example, I took part in hustings that Boroughmuir high school and James Gillespie’s high school hosted. Some 700 S5 and S6 pupils were in one place grilling me and Sarah Beattie-Smith from the yes campaign on the cases for and against independence.

Saying that the best questions came from young people has the danger of sounding patronising, but that is true. I think that that was the case because young people are less likely to think about I, the individual, and are more likely to talk about we, the country, and what type of country

we want to be. They have less political baggage and are more driven by the first principle of what can be done to make this country a better place.

I have not read the full report, but earlier this week I heard Professor Ailsa Henderson talking on "Scotland Tonight", I think, about the demographics in the referendum result. I am sure that I heard her say that, when research was done into who had read the most before they came to their conclusion on how they would vote, it was found that 16 and 17-year-olds were the most informed group. I think that the evidence from the University of Edinburgh was that those in the 16-to-17 age category had done the most homework.

So what now? We have a duty to keep the political engagement alive. There is a great danger that those people, who currently have a voice, will be excluded from next year's general election. I appreciate the sensitivities of a members' business debate, but I have no doubt that Christina McKelvie is calling on us and David Cameron to ensure that 16 and 17-year-olds have a vote in next year's general election. I support that call; indeed, I have written to David Cameron to ask for that to happen.

There is a reason for that. If a person voted no, as I did, they did so because they believe that the best way to make our country a more prosperous, equal and just place is by working together across these isles using the resources, hopes and ambitions of 63 million people. If a 16 or 17-year-old voted no, they are now relying on other people to vote for that vision. If a person voted yes, they will be angry and disappointed. I get that, but there is a great danger that they might be disenfranchised from the political process because they, too, are voiceless without a vote.

Therefore, I back 100 per cent what Christina McKelvie is arguing for. I fully support her campaign and hope that the message to Mr Cameron from the Parliament is loud and clear. We need to give 16 and 17-year-olds the vote next year.

12:47

Clare Adamson (Central Scotland) (SNP): I congratulate Christina McKelvie on securing this important debate, which gives us an opportunity to reflect once again on the great civic participation in Scotland during the referendum campaign.

There are many examples of how young people have engaged in the process through schools, youth clubs and the Scottish Youth Parliament, which Ms McKelvie has already mentioned. I want to highlight in particular one group of young people and their response to the referendum.

The Scottish Youth Theatre, which is Scotland's national theatre for and by children and young people, chose to have independence as the centre of its deliberations over the two years that led up to the referendum. By choosing to use independence as the theme, the aim was to prompt young people to ask questions and to allow them to voice their fears and research all aspects on all sides of the debate.

That was reflected in the many versions of the "Now's The Hour" production, which was performed as part of the Scottish Youth Theatre's summer festival in 2013 and went on to be adapted and performed in many areas. The concept was very interesting and unique. The young people wrote a letter to their future selves that expressed their deliberations on the referendum process. Above all, the production was really entertaining. I had the delight of seeing it in the Parliament during the festival of politics in 2013. I attended it with my son, who was then 16 years old and was going through the same process. He found it thought provoking, informed, fun and reflective of young people and their maturity in the way that they were approaching the matter. A BBC documentary about the production was broadcast in April 2014.

The young people took part in a collaboration in the cross-party group on culture in the Parliament in May 2014. Undaunted by an esteemed audience that included the National Theatre of Scotland, which was also performing, and a panel that included Ruth Wishart and Billy Kay, the young people performed part of "Now's The Hour", went on to engage with and talk to people who attended the cross-party group, and gave more insight into their experience of what they were doing in their deliberations on the referendum.

It was a fantastic opportunity for young people. Many people were able to see the production at the Edinburgh fringe, during which it was performed every lunch time. It was a great reflection of our young people and of Scotland's support for young people through the Scottish Youth Theatre. For 38 years, the Scottish Youth Theatre has been giving children and young people in Scotland a wide variety of opportunities to participate in high-quality theatre, which has given them a voice. We owe the theatre a great debt, and we should offer it great thanks for those opportunities.

The Scottish Youth Theatre puts young people at the centre of everything that it does. It believes that every young person in Scotland has a great deal to offer and, in its work, it gives those young people a chance to shine. If we put our young people at the heart of everything that we do, we can expect the same wonderful outcomes that were shown by "Now's the Hour".

The argument for extending the franchise should not be doubted. If anyone does doubt it, they should go and look at the work of the Scottish Youth Theatre and the amazing young people who took part in it. I hope that in the future the franchise will be extended in all elections. I encourage every young person involved in politics and youth organisations to consider making their views known to the Smith commission.

12:51

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I, too, am pleased to speak in this debate, and I congratulate Christina McKelvie on securing the time to allow it to take place. I add my support to the call for the franchise to be extended to include 16 and 17-year-olds across the whole of the United Kingdom.

It is true that my party initially opposed lowering the age for voting in the referendum. At the time, we made it clear that we were not opposed to altering the age for voting but we were opposed to singling out the referendum for a trial extension of the franchise to 16 and 17-year-olds.

Notwithstanding that, I fully accept the decision of the Parliament to lower the voting age for the referendum. Indeed, without the Prime Minister's signature on the Edinburgh agreement, 16 and 17-year-olds would not have been allowed to vote.

The situation now is entirely different, as 16 and 17-year-olds have been given the vote. They have conducted themselves commendably and they have engaged in the political process. The motion talks about how 16 and 17-year-olds were "highly visible" and active and made a welcome contribution to the constitutional debate in Hamilton, Larkhall and Stonehouse. That certainly reflects what I witnessed of young people across the Scottish Borders. During the long referendum campaign, I spoke to many young voters in school debates, at hustings and on polling day itself. I was hugely impressed by the level of engagement and understanding that they demonstrated. It was clear that many of them were taking their responsibility very seriously by turning out to vote, and I hope that their experience will encourage them to participate in future elections.

That is why I believe that the case has now been made to extend the franchise, but that should be done in the correct way—namely, on a UK-wide basis. I will not repeat at length the arguments about at what age people should be allowed to vote. Parliaments have to draw a line somewhere and it seems to me that there are valid arguments for having the age for voting set at 16, 17 or 18. That is particularly true in the United Kingdom where there is no single age at which all responsibilities and liabilities are imposed at once.

One age is not necessarily better than others. Indeed, we need to do more to engage with voters of all ages and to increase turnout.

However, one point that I find convincing is that, when the voting age was reduced in other countries, turnout rates for 16 and 17-year-olds were found to be comparable to those of the electorate at large and higher than those for 18 to 20-year-olds. If lowering the voting age will help to increase overall turnout rates, that is a compelling reason to look at it very closely.

On a purely practical level, we cannot ignore the fact that the vote has now been given to 16 and 17-year-olds. We are therefore now talking about withdrawing the right to vote from a group of people who have been allowed to vote on the future of Scotland and the United Kingdom. Now that that decision has been taken, to oppose extending the franchise in all elections would be the wrong thing to do. Given the way in which 16 and 17-year-olds conducted themselves last month, we should all be proud of them and we should be thinking very carefully about extending the franchise to them all permanently.

12:54

Marco Biagi (Edinburgh Central) (SNP): I thank Christina McKelvie for bringing the debate to the chamber. It is good to see Joe FitzPatrick in the chamber to respond to the debate—as the Minister for Parliamentary Business, he does not get many opportunities to do that, and I am sure that he will thank Christina, too.

Like Christina McKelvie, I have been a supporter of the campaign to extend the franchise for as long as I have been in the Scottish National Party, and probably longer. I have always acknowledged the point and the theory behind it: at 16, people can marry, join the Army and work full time and pay tax. Now, we have seen the practice, and what actually happens.

It is the same with so many big reforms: things seem a bit scary and risky before they happen, but once they do, everybody suddenly sees how well they can work. Perhaps there is a wider lesson in there, but I will leave that aside for another day to avoid accusations of digging up the referendum.

To go back to what Kezia Dugdale said about the questions that are asked, it is fair to say that, during the referendum campaign, we got a different type of question when we appeared in front of a youth audience. We would get the ones that we expected: the standard questions about the currency or the European Union—even "EastEnders"—came up. However, we also got questions that surprised us.

I was on the panel at a question-and-answer session in the Scottish Youth Parliament. It was not so much the content of the questions that surprised me, but the electronic voting system that allowed reality television-style rating of our answers. I can assure members that that was a nerve-wracking experience.

At all the schools that I visited, there was a fantastic atmosphere and energy. At Broughton high school, I was ushered in to speak to the headteacher, who realised that the head of modern studies had brought me in as the sole MSP for the session, and said to me, "Whatever you do, don't talk about the referendum." I said that of course I would not talk about the referendum; it was just a question-and-answer session rather than a debate. However, the referendum was all the young people wanted to talk about, so I spoke about the importance of voting. I said, "Make the decision and research it—I will leave that up to you, but what matters is that you vote"—and boy, did they do so.

I have had great experiences even in primary schools. The unpredictability of the questions is amazing. At Flora Stevenson primary school, I was asked, at the end of a long series of quite serious questions, one of those questions that just throws you: "What is your secret talent?" I thought, "Oh, heck"—it was a bit like being on reality TV. What could I say to a group of 11-year-olds in that situation? I will leave members to think about how they might have answered that question.

At another primary school, I was asked towards the end of a question session if any MSPs had ever been arrested. That is an interesting question—I will not think about where it came from, but it gave me an excuse to talk about non-violent direct action and the types of things that many MSPs have done for causes that they believe in, such as removing Trident.

In the last two days before the referendum, a Yes Scotland shop opened on Gorgie Road just along from Tynecastle high school. On the first day, the Tynecastle kids all came in looking for information. It must have been good information, because they all came in the next day wearing "Yes" badges.

Those were all great experiences that I will look back on fondly. Looking ahead, I wonder whether 16 and 17-year-olds, if they are enfranchised, will vote in elections with as much passion as they voted in the referendum. Maybe they will, or maybe not. Elections are different from referendums—are we ever going to have an 85 per cent turnout in an election?

We must remember that not everyone who has the right to vote exercises it, and that is a valid choice that we have to respect. I hope that 16 and

17-year-olds will get the vote and will be able to use it, whether that is under a Scotland act or a United Kingdom-wide act. The extension of the franchise is a really good reform—as was said on the eve of the referendum, "Let's do this!"

12:59

Hanzala Malik (Glasgow) (Lab): I thank Christina McKelvie for bringing the debate to the chamber. There are more than 1.5 million 16 and 17-year-olds in the UK, and they are denied the vote. In the run-up to the referendum, I debated and campaigned with many in that age bracket in Glasgow. They engaged thoughtfully and passionately in the debate, and I believe that the case for giving them the vote in any election is overwhelming.

I believe that 16 and 17-year-olds have sufficient maturity and knowledge to cast a vote if they wish to do so. The law recognises that they are able to make complex decisions and take on a wide range of responsibility, and they show in practice that they make a positive difference.

There is a wide problem of young people disengaging from politics. Putting aside the referendum, recent reports suggest that 30 per cent of young people aged 18 to 25 were not registered to vote in advance of the recent local government and European elections, and there are also people who registered but did not bother to vote.

Action is now long overdue. It is essential that we let 16 and 17-year-olds engage with and participate in our democracy, after having learned the principles of democracy in compulsory citizenship education. One suggested way in which to solve the problem is automatic registration, but it is not for me to make a decision about that; it is just an example.

If young people have the vote, they will be inspired to get involved in our democracy. I believe that that is fundamentally important. Our 16 and 17-year-olds engage in many aspects of our industries and our communities, they engage culturally, they serve in the armed forces and they get married and have families. Those issues are more important than a vote and, if they can participate in them, why should they not have the vote?

We must not make 16 and 17-year-olds wait. It is squandering their energy and passion and their enthusiasm to participate in democracy. As a community and a nation, we suffer because of that.

It is important that our 16 and 17-year-olds are made to realise that we value their ideas and aspirations. If they are not allowed to vote, a

section of our community is missing in real terms. Hence, it is important that people who are at school, college and university can see, and therefore believe, that we take their views seriously. They must be allowed to participate in decision making. Importantly, that will encourage them to continue to use their vote throughout their lives, which is important.

If democracy is to survive, we must allow our young people in our schools and colleges to be educated in democracy. That is right, and I think that the time is right for it. I therefore support the right of 16 and 17-year-olds to vote, not only in Scotland but across the UK, and in all elections.

13:03

Joan McAlpine (South Scotland) (SNP): I, too, would like to congratulate Christina McKelvie on securing this important and timely debate.

I start by listing some of the arguments against extending the franchise. People said, “90 per cent of them don’t want the vote”, “The benefit doesn’t outweigh the expense”, “It will cause division in families”, “Politics is corrupting” and, of course, “They don’t know enough about the serious issues.”

Those arguments were put not against young people getting the vote but, back in the days of the struggle for women’s suffrage, against women getting the vote, although some of them were repeated to try to stop the franchise being extended to 16 and 17-year-olds. Denying women the vote for those reasons seems absurd now and, listening to the debate today, I feel confident that we will see an extension of suffrage to 16 and 17-year-olds.

I want to spend some time praising the particular role of schools in educating young people in democracy in the course of the referendum campaign. The journey that young people went on during that time was noteworthy. If the chamber would indulge me, I would like to praise the schools and educational institutions that held debates in which I participated: Tranent secondary; Jedburgh grammar; Langholm academy; Dumfries high; Dumfries academy; St Joseph’s college, in Dumfries; Dumfries and Galloway College; Moffat academy; Wallace Hall academy; and Annan academy. Outwith my region, I stepped in for a colleague in a debate in Cleveden secondary, just up the road from my house.

In all of those debates, I was really struck by the efforts that the teachers—and, indeed, the pupils, who were often involved in the organising—had put in to make them happen. They are not easy to pull off; they are something of a logistical exercise, and the curriculum is busy.

The teachers should be congratulated not only on organising the debates but on the way in which they prepared pupils. I believe that extending the franchise to 16 and 17-year-olds will benefit all voters because young people will start to be educated at school, where they will have access to good-quality, clear and balanced information, not just what they get through the media. That will make them good citizens and political participants for the rest of their lives, which is, of course, very important.

Modern studies teachers, in particular, played a really important role in organising a lot of the debates. I am not saying that those teachers were involved exclusively but they certainly played a prominent role in the schools I spoke at. If we get 16 and 17-year-olds the vote and continue this level of political education in schools, we must make it consistent and ensure that it reaches all pupils. Modern studies is a fantastic subject and a source of pride for the Scottish education system, and it would be great if everyone took it. However, we need to consider how we roll out the best-quality political education to all our 16 and 17-year-olds.

In the last few weeks of the campaign, I ran many street stalls in different towns in the south of Scotland. Many of those stalls were close to schools, and in those last few weeks we benefited from marvellous weather, which allowed us to engage with young people. One of my best memories comes from Moffat, where I saw three fifth-year pupils from Moffat academy sitting on a park bench in the lunch-time sunshine and absolutely focused on reading “The Wee Blue Book”, which was one of our materials.

A lot of young people got engaged in the campaign towards the end of it, but the fact is that many of our debates had taken place six months before. Six months is a long time in the life of a 16-year-old and I would be keen to ensure that, if the franchise were to be extended in future, activity took place in schools as close to the vote as possible to capture the sense of excitement that we saw in the campaign’s last few weeks.

13:07

The Minister for Parliamentary Business (Joe FitzPatrick): I, too, congratulate Christina McKelvie and thank her for bringing such an important and timely debate to the chamber.

The referendum was a remarkable demonstration of democracy at its best, and I think that this afternoon’s debate has demonstrated this chamber at its best, too. Members have made impassioned speeches recalling young people’s engagement and energy and their considered contributions to the debate on Scotland’s future.

Clare Adamson highlighted how the Youth Theatre was such a great reflection of our young people, and Joan McAlpine very importantly praised the role played by schools in ensuring that our young people had the information that they required to take part in what Hanzala Malik called a passionate debate.

It was right for Christina McKelvie to start off by thanking our ambitious young people who, by and large, ensured that we managed to get votes for 16-year-olds in the referendum. However, it was also important that she acknowledged those perhaps longer in the tooth who have been campaigning for votes at 16 for a very long time, some of whom are in the chamber this afternoon.

A lot has been said about the record-breaking turnout and unprecedented levels of engagement by the people of Scotland, but it is crucial that we continue to engage and enthuse them. We must not lose the momentum that was reflected in the substantial number of people who voted for the first time, around 109,000 of whom were 16 and 17-year-olds. That is a huge number of people.

The 18th of September was the first time that 16 and 17-year-olds were entitled to vote in a national poll. The SNP Government has had the policy for a long time. As Christina McKelvie said, we have always believed in extending the franchise to 16 and 17-year-olds, and we have done that where we have the powers to do so. I know that that is the position of probably every member who is in the chamber and a large number of members, across the parties, who are not with us.

However, when the Government introduced the Scottish Independence Referendum (Franchise) Bill in 2013, there was not universal agreement on the principle of enfranchising 16 and 17-year-olds to vote in the referendum. Members of the Scottish Parliament and, in particular, members of the Referendum (Scotland) Bill Committee should be proud of the way in which they scrutinised the Scottish Government's proposals and of their constructive and pragmatic approach. That was the case for members of the committee and of the Parliament irrespective of where they stood on the principle of the franchise. Members ensured that, if it was going to happen, we would do it properly and safely and we devised a workable system for safely extending the franchise.

It is a measure of the strength of those proposals and the Parliament's work that the arrangements received broad support across the political spectrum and among key stakeholders such as child protection groups and electoral administrators, both before and after the referendum. As I said at the time, not everyone agreed with the principles. Looking back, like Kezia Dugdale, I find it hard to believe that the measure was ever viewed as controversial, but it

was. It has been a pleasure to witness the democratic engagement of our young people, who were proud to claim the right to register their vote on a question about the future of their country. The measure is no longer controversial.

Marco Biagi mentioned that, because the arrangements worked to such good effect, they provide us with a template for extending the franchise not just in Scotland but elsewhere in the UK and maybe in other jurisdictions that might be looking at how things worked in Scotland. I was particularly pleased to hear John Lamont's support for extending the franchise for all elections.

The Scottish Parliament already has a range of powers with regard to local government elections, which we have used to good effect, I think. However, Westminster retains responsibility for the franchise for and the method of electing members to the Scottish Parliament and members' length of tenure. Sections 1 to 3 of the Scotland Act 2012 will devolve some but not full responsibility for the administration of those elections. Those sections will be commenced as soon as possible to ensure that we can prepare for the Scottish Parliament elections in 2016. However, even after the commencement of those sections, the Scottish Parliament will still be without key powers in relation to the election of its members. To be clear, without powers that are additional to those that will be devolved by the Scotland Act 2012, we cannot legislate to allow 16 and 17-year-olds to vote in the elections for the Parliament in May 2016 or the local elections in 2017. I hope colleagues will strongly agree that the Parliament must have those powers.

The referendum and its underpinning legislation were made in Scotland and there is no reason why that should not be the case for all elections in future. With the Scottish elections just 20 months away, the Government has written to the UK Government requesting as a matter of urgency the devolution of the remaining responsibilities for elections to the Scottish Parliament and local elections in Scotland. We have also urged the UK Government to introduce legislation at Westminster to lower the voting age for its elections—that resonates with John Lamont's comments.

In the run-up to the referendum, I was privileged to join Cabinet colleagues at a number of events to engage thousands of people on our proposals for Scotland's future. One of those events was specifically designed to allow us to interact with and listen to our young people. It was held in the Scottish Exhibition and Conference Centre in Glasgow and was jointly organised with the Scottish Youth Parliament, Young Scot and YouthLink Scotland, supported by other youth organisations.

A variety of subjects were discussed, including education, the constitution, defence, young carers, the environment and much more. For me, one question that a very articulate young woman put to me stood out. Very reasonably, she asked whether 16 and 17-year-olds would get to vote in the elections to the Scottish Parliament in 2016, which at the time I hoped would be for the first independent Scottish Parliament. I answered that, in line with SNP policy, an SNP Government in an independent Scotland would legislate to reduce the voting age to 16 for all elections. "But what about the election in May 2016?" was her retort. "You can't give us the vote then take it back," she said. "That would be wrong." She was absolutely right. It will not be an election for an independent Scotland, but it would be a travesty if we cannot find a way to ensure that 16 and 17-year-olds are enfranchised to vote in that election.

Scotland's young people have amply demonstrated their enthusiasm, engagement and willingness to participate in our democratic processes. They have not taken their responsibility lightly and neither should we. I sincerely hope, therefore, that the UK Government will take proper note of the positive experiences that we have had here in Scotland, so that we can ensure that all 16 and 17-year-olds are able to vote in all future elections.

13:15

Meeting suspended.

14:30

On resuming—

Draft Budget 2015-16

The Presiding Officer (Tricia Marwick): Good afternoon. We have no visitors up the stairs. The first item of business is a statement by John Swinney on the budget 2015-16. The cabinet secretary will take questions at the end of his statement, so there should be no interruptions or interventions.

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): The Scottish Government's draft budget for 2015-16 is rooted in our purpose of delivering opportunities for all of Scotland to flourish through increasing sustainable economic growth. The discipline of that approach, achieving growth while delivering on our obligations of sustainability, cohesion and solidarity, has guided this Government since 2007.

Our record of delivery is rigorously assessed through the national outcomes that are set out in Scotland performs, which has been cited by the Carnegie Trust and others as an international leader in wellbeing measurement, and we will put the outcomes approach into law through the Community Empowerment (Scotland) Bill.

Alongside the draft budget, I have published a number of supporting documents, including an update on Scotland performs, an equalities budget statement and a carbon assessment of our spending plans.

This budget comes at a time when Scotland enters a new phase in our economic and political debate. The economy has grown continuously for almost two years and output is now above pre-recession levels. As a result, 2014 is forecast to be the strongest year of growth since the financial crisis began. The number of people in employment has increased by 87,000 over the past year, to reach a record high of more than 2.6 million, and female employment is at its highest level since records began. Scotland now has the highest employment rate, the lowest unemployment rate and the lowest inactivity rate of all four United Kingdom nations. As we move from recession to recovery, it is essential that the benefits of economic growth are not only maintained but shared by everyone across Scotland.

This budget also follows the most vibrant political campaign Scotland has ever experienced. In the course of the referendum campaign, whether we argued for yes or for no, all of us must have been struck by the unprecedented engagement of the electorate, and the hope—expressed with breathtaking clarity by Scotland's

people—that they want to live in a more prosperous and much fairer country than we do today.

I had hoped to deliver a budget that would lay the foundations for an alternative to austerity through full financial powers. We are not yet in that position. Since 2010-11, our fiscal departmental expenditure limit budget has been cut by around 10 per cent in real terms, and our capital budget has been cut by more than a quarter. Regrettably, once again, Scotland's budget must strive to meet Scotland's needs in the face of UK austerity, but I give the commitment, unreservedly, on behalf of the Scottish Government, that we will do all that we can within the powers available to this Parliament to ensure that the people of Scotland are able to live in a more prosperous and much fairer country.

This is my eighth budget to Parliament, but it is the first one in which I have been able to set tax rates—indeed, it is the first time that any finance minister has set national tax rates in Scotland since 1706, when the Scottish Parliament last set the rate of the cess land tax on property. Now, after a hiatus of 308 years, and in a moment of splendid coincidence, we return to the issue of the taxation of property transactions.

From April 2015, land and buildings transaction tax and Scottish landfill tax will replace stamp duty and UK-wide landfill tax in Scotland. In establishing those two taxes and determining the rates that will apply, we have put in place a Scottish approach to taxation that is based on the four maxims set out by Adam Smith in 1776: that the tax system should offer certainty, and convenience; that collection should be efficient; and that taxes should be proportionate to the ability to pay. It is that final maxim—that taxes should be proportionate to the ability to pay—that drives the decisions that I will announce.

As part of my commitment to a robust fiscal framework, I established the Scottish fiscal commission to provide independent scrutiny of the Scottish Government's forecasts of tax receipts and of the economic determinants that underpin forecasts of non-domestic rates income. The fiscal commission has today published its report, and I am pleased to note that the commission has been

“able to endorse as reasonable the forecasts made by the Scottish Government”.

I have decided that the taxes raised should be revenue neutral, raising no more or less than the taxes that they replace. In setting rates for landfill tax, I am acting to avoid any potential for waste tourism through material differences between the tax rates north and south of the border, and to support our ambitious zero waste goal. As a result, I propose that the standard rate of Scottish landfill

tax should be set at £82.60 per tonne and that the lower rate should be set at £2.60 per tonne. I am also setting the credit rate for the Scottish landfill communities fund at 5.6 per cent, which is 10 per cent higher than the UK equivalent. We will increase the funding available to address environmental harm without increasing the burden of taxation.

In accordance with Adam Smith's maxims, we have designed land and buildings transaction tax to remove the distortions in the residential property market created by the existing UK system, which saw prices set to avoid increased tax bills and placed a barrier in front of first-time buyers. Our progressive approach ensures that the tax that is paid on property transactions is more closely aligned to the ability to pay and that those on lower incomes, particularly first-time buyers, are helped to become home owners in a balanced and sustainable way.

The following rates and bands will apply to residential transactions taxable under LBTT, with effect from 1 April 2015: the threshold for paying the tax will be increased from £125,000 to £135,000; a marginal tax rate of 2 per cent will apply to the proportion of the transaction between £135,000 and £250,000; and a marginal tax rate of 10 per cent will apply between £250,000 and £1 million.

Last week, many people, energised by the referendum debate, will have watched in horror as the Conservative Party cheered the prospect of reducing the incomes of many low-paid workers—not, as the Conservatives claimed, in order to reduce the deficit but to fund a tax break for the better-off. This Government will take a very different approach. As a result of the rates that I have announced today, nobody will pay tax on the first £135,000 of their house purchase; 5,000 more transactions will be taken out of tax, supporting first-time buyers and those buying properties in the affordable market; and tax will be reduced for a further 44,000 house sales up to the value not of £250,000, as had been speculated, but of £325,000. We will do that while ensuring that 90 per cent of taxpayers will be better or no worse off than under the stamp duty land tax.

As a final rate, we will set a top rate of 12 per cent for properties above £1 million, ensuring that the most well-off in our society make a contribution to the public purse. In exercising its first judgments on national taxes, this Government has put fairness, equity and the ability to pay at the heart of what it has done. That is the benefit of putting decisions about Scotland's future in Scotland's hands. [*Applause.*]

As a consequence of our proposals, a first-time buyer purchasing a house at £130,000 will pay no tax; a young couple buying a flat at £140,000 will

save £1,300, paying only £100 in tax; and a family buying a home at £260,000 will save £4,500 on their tax bill.

The proposed rates and bands of LBTT for non-residential transactions will ensure that Scotland remains a competitive place to do business. I propose to set the following non-residential rates of LBTT with effect from 1 April 2015: the nil rate threshold will be set at £150,000; a marginal tax rate of 3 per cent will apply to the proportion of a transaction between £150,000 and £350,000; and a marginal tax rate of 4.5 per cent will apply above £350,000. Those rate proposals reduce the tax charge for the majority of transactions below £2 million, ensuring that 95 per cent of non-residential taxpayers are better or no worse off than under SDLT.

The following rates will apply to leases with effect from 1 April 2015: the nil rate threshold will be set at £150,000; and a marginal rate of tax of 1 per cent will apply to the proportion of a transaction above £150,000.

We are also today publishing a fact sheet and a tax calculator to demonstrate the benefits that those rates will have for home buyers in Scotland.

The Scottish Government takes a prudent approach to managing the non-domestic rates pool, but forecasts, by their nature, will never be 100 per cent accurate. Between 2008 and 2014, the difference between the total amount of non-domestic rates income received and the Scottish Government's estimated budget was three tenths of 1 per cent—£40 million out of a total of £13.1 billion over the period—which was a small but welcome surplus.

The fiscal commission has considered our NDRI forecasts and has expressed the view that the buoyancy assumptions "seem optimistic". As a result, I have revised down the NDRI forecast in the draft budget for 2015-16. Despite that revision, we will continue to apply the small business bonus scheme and maintain parity with the poundage in England, and I confirm that the public health supplement will conclude, as announced, at the end of this financial year. That will deliver the most competitive tax framework for business in the United Kingdom.

There is one outstanding factor in the devolution of taxation to the Parliament that I wish to raise. Despite repeated engagement with the UK Treasury, a final adjustment to the block grant has not yet been agreed. The budget having been set, any such adjustment must now allow the Scottish Parliament to meet the spending plans that I have set out and to enable an initial payment into the cash reserve.

In addressing the issues that were raised in the referendum, my draft budget is focused on three

main themes: to make Scotland a more prosperous country; to tackle inequality; and to protect and reform public services.

The economic policies in the draft budget are focused on job creation, delivering investment and rebalancing the economy. Strengthening Scotland's labour market performance by improving participation, workforce skills and the quality of employment is essential to achieving sustainable economic growth and ensuring that the benefits of that growth are shared.

Youth unemployment remains a key challenge. We have already allocated £12 million in this financial year to take forward the recommendations of the commission for developing Scotland's young workforce. In partnership with local government, colleges, Skills Development Scotland and others, we will allocate a further £16.6 million in 2015-16 to expand apprenticeship opportunities, establish new regional employment partnerships and support employers to engage with and employ young people to ensure that they have access to job-relevant learning.

We will maintain our commitment to education that is based on the ability to learn and not the ability to pay by keeping free tuition at the core of higher education, with over £1 billion-worth of investment, and we will maintain our plans to increase funding for further education to £526 million.

Opportunities for all will support 16 to 19-year-olds with training and employment, and we will build on our successful delivery of 25,000 modern apprenticeship opportunities with a target of 30,000 starts each year by 2020.

To ensure that the benefits of economic growth are available to all, we are investing more than £300 million over two years to allow for expanded childcare provision of 600 hours for three and four-year-olds and 27 per cent of two-year-olds. That investment will reduce the cost barriers that face parents with young children when they look to participate in the labour market.

A consistent focus of the Scottish budget has been on expanding investment in infrastructure to secure economic recovery. I will continue to make that argument. In 2015-16, we will secure around £4.5 billion of infrastructure investment, including through the use of the capital borrowing powers that are available to us under the Scotland Act 2012, on top of the capital investment that is being facilitated through the tax increment financing pilot schemes and the national housing trust initiative.

Almost £650 million-worth of projects in the current £2.5 billion non-profit-distributing pipeline began construction in 2013-14 alone. The budget provides an update from the Scottish Futures

Trust on the latest timetable for NPD projects and the achieved cost savings, principally through the M8, M73 and M74 improvement works.

I can also confirm the detail of the £1 billion extension to the programme that I announced in April. We will make £140 million available to create new learning campuses at Fife College and Forth Valley College; £330 million for the schools for the future programme; £400 million for health projects, including the Royal Edinburgh hospital; £60 million for up to three new justice centres; and £70 million for low-carbon and digital projects.

Our overall investments in schools, digital infrastructure, energy efficiency, health and transport, including an additional £10 million next year for cycling and walking infrastructure, target projects that will make the economy more productive, with assets that deliver greater energy efficiency and better outcomes.

This investment includes once-in-a-generation projects such as the Queensferry crossing where, on Monday, the Deputy First Minister announced a £50 million reduction in the project's budget requirement, demonstrating this Government's continuing determination to secure maximum value for public money.

We will focus on developing the international outlook of our businesses with support for exporting through our enterprise agencies and initiatives such as the Scottish Investment Bank. We will support commercialisation of world-class research in Scotland through our innovation centres programme, backed by up to £124 million of funding over six years. We will help businesses create employment by delivering the most competitive package of business rates relief in the UK, with more than half of all properties benefiting from zero or reduced rates through a relief package worth around £615 million next year. This is a budget that will support business and sustain growth.

We are taking a sustained approach to tackling poverty and inequality, but our efforts are being undermined by the UK Government's welfare reforms. Child poverty organisations have warned that, by 2020, an additional 100,000 children could be living in relative poverty because of those cuts. Building on our expansion of childcare provision, this budget delivers our commitment of free school meals for all primary 1 to primary 3 children, worth £330 per year for around 170,000 children.

Our social wage commitments, including concessionary travel, free prescriptions, free eye tests, free personal care and freezing the council tax for the eighth year, support household incomes, particularly for those on the lowest income.

Last year we took significant steps to mitigate the impact of UK welfare reform on households in Scotland. It is to my regret that the direction of Westminster policy means that we need to take the same action again. This draft budget maintains our increased support for welfare reform mitigation at £81 million in 2015-16, including funding to fully mitigate the bedroom tax and support the Scottish welfare fund. The fund has helped more than 80,000 households, with around 50 per cent of awards being made to applicants living in the 20 per cent most deprived areas in Scotland. Some 500,000 households have benefited from our council tax reduction scheme, delivered in partnership with local government.

We are committing additional funding to tackling child poverty and will work with the Convention of Scottish Local Authorities to extend financial support to kinship carers. We will increase funding to the early years collaborative, working with community planning partners, to help increase the take-up of healthy start vouchers. We will focus resources on the life chances of some of our most vulnerable young people with a package of support for care leavers, a mentoring scheme for looked-after children and advocacy support for children in the hearings system.

Tackling inequality is not simply about mitigating welfare cuts. Supporting economic growth, improving labour market outcomes and lifting people out of poverty are mutually supportive objectives.

Investment in housing provides economic stimulus, improves the energy efficiency of housing stock, reduces fuel poverty and supports thriving, cohesive communities. Scottish Government programmes are on track to meet our five-year target of delivering 30,000 new affordable homes, including 20,000 for social rent by 2016. An investment of over £390 million will be used in 2015-16 to deliver 6,000 affordable homes, of which 4,000 will be for social rent.

To meet the needs and aspirations of the people of Scotland, this budget recognises that we need to go beyond that commitment. I am delighted to be able to announce that a package of measures spanning social, affordable and market housing will be boosted this coming year by an extra £125 million of financial support for the housing sector in Scotland.

This Government is committed to protecting public services and to driving forward an ambitious programme of public service reform. We are focused on improving outcomes and on ensuring that our services are sustainable in the long term. That is all the more essential in the face of the budget challenges that we face now and those that we will face in the future.

Efficiency and control of costs are vital. We therefore remain committed to the two-year public sector pay policy published last year, which supports those on the lowest incomes, including through the Scottish living wage; guarantees no compulsory redundancies; and allows for affordable increases in pay, within the tight budget settlement imposed upon us. That approach enables us to protect key public service commitments, such as maintaining police numbers and providing a fair settlement for local government, including for shared priorities in school education.

The national health service is a precious asset to us all. Our NHS faces financial challenges arising from the austerity of the UK Government and the latest round of pension changes, in addition to rising levels of demand for care. That is why it is essential for us to continue our programme of reform.

NHS boards and local authorities are working to deliver integration of the adult health and social care system, to achieve better outcomes for individuals and to ensure the long-term sustainability of our services. In this budget the process will be further supported by additional investment in primary care. Taken together, the integration fund and the additional primary care spend will rise to a total of £173.5 million.

The Government gave a commitment in 2011 to pass on resource Barnett consequentials arising from health spending in England to the NHS in Scotland. We have done so, in full, in each and every year since 2011. That means that, in each and every year, the Government has delivered a real-terms increase in health resource funding, just as we promised we would.

Our budget plan for next year would have involved increasing the NHS budget by £202 million in 2015-16. I can confirm to Parliament that we will not now follow that plan. Some Opposition members have suggested that the NHS budget would be cut next year by £450 million. Not for the first time, they are wrong. In addition to allocating more than £400 million in NPD funding for capital projects, I have decided to increase the health budget from this year to the next, not by £202 million but by £288 million in total, with an additional £86 million bringing the health budget to more than £12 billion for the first time ever. Under this Government, Scotland's NHS is properly funded and will be kept in public hands.

The budget embraces new tax responsibilities for the Scottish Parliament and, within our current powers, deals with the challenges that are created by austerity from the United Kingdom. It harnesses the positive engagement that we saw in the referendum and provides a response that is

anchored in the approach that this Government has pursued since 2007.

With a clear and decisive focus on tackling inequality and on making Scotland a more prosperous country, it is a budget for fairness and opportunity, and I commend it to Parliament.

The Presiding Officer: Members who wish to ask a question should press their request-to-speak buttons now. I intend to allow about 40 minutes for questions.

Iain Gray (East Lothian) (Lab): I will begin, as I always like to, by agreeing with the cabinet secretary. He has indeed made a little history today by setting the first Scottish national tax rates for 300 years. He knows that we on the Labour side of the chamber welcome that, and that we welcome the fact that land transaction tax is more closely related to property value than its stamp duty predecessor was.

Will the cabinet secretary agree, therefore, that his historic tax-raising budget and his new borrowing powers exercise simply demonstrate once and for all that we can have a powerful fiscally responsible devolved Parliament here in Scotland, but within the framework of the United Kingdom, exactly as the people of Scotland democratically, decisively and emphatically chose just three short weeks ago today? [*Interruption.*]

The Presiding Officer: Order.

Iain Gray: During the referendum campaign, it emerged that the cabinet secretary's eight successive budgets have failed to protect the NHS. Health spending in Scotland has not kept up with increases, even in comparison with the Tory-run English NHS. Our NHS has approximately £700 million less than it should have had, had the cabinet secretary kept his promises. The use of the private sector in our health service has spiralled—[*Interruption.*]

The Presiding Officer: Order. Let us hear Mr Gray, please.

Iain Gray: Plans are being made for approximately £450 million-worth of cuts to accommodate the resulting financial pressure. Whatever the cabinet secretary claimed, and no matter how he tried to dress up or spin the figures, page 25 of his budget document shows a real-terms increase in NHS budgets of about 1 per cent, which is a quarter of the increase that is planned in England.

Can the cabinet secretary tell us why he is letting our NHS down yet again?

John Swinney: First, we can all draw conclusions from the exercise of fiscal powers in this Parliament. Iain Gray has just applauded the decisions that I have made. He supported the

legislation to enable us to take a different approach on stamp duty land tax in Scotland by the establishment of land and buildings transaction tax. What I deduce from that is that it is much better if we in the Scottish Parliament have the ability to take the decisions that are right for Scottish circumstances.

To flip—may I use that term? The Labour Party knows all about flipping—to another issue, there are in the UK system lots of things happening in respect of welfare that this Parliament disapproves of, and we are currently powerless to deal with all the consequences of those things.

I simply say to Iain Gray that he can draw his own conclusions from the exercise of tax responsibilities that we have undertaken, but the conclusion that I draw is that it is much better to determine such decisions in Scotland.

Before we go much further on the issue of the constitution, I remind Iain Gray of the vow, with its promise of additional and substantive financial responsibilities. We will be holding the Labour Party to the promises that were made in the referendum campaign.

On NHS funding, Iain Gray said that the Scottish Government's use of the private sector has "spiralled" up. It has gone up from 0.8 per cent to 0.9 per cent. Is that spiralling up? In many of the years in which we have been responsible for the health service, we have spent a smaller proportion of the health budget on private facilities than the Labour Party did when it was in office.

On the health budget, in 2011, the Scottish Government committed itself to passing on every penny of resource from Barnett consequentials to the health service in Scotland. That is precisely what we have done. What was singularly absent from Iain Gray's comments today was a welcome for the departure from the previous plan, with the result that we are putting even more money into the health service. Why can the Labour Party not welcome good news when it is staring it in the face?

Gavin Brown (Lothian) (Con): I thank the cabinet secretary for the advance copy of his statement.

Let us begin with health. The cabinet secretary announced additional spending of £288 million. However, his statement was slightly different to the one that the First Minister gave at First Minister's question time today. Does that money meet the actual manifesto commitment that was made by the Government? I am talking not about the commitment that it has subsequently said it made, but the commitment that it made on page 3 of its manifesto, which says:

"We are pledged to protect the NHS budget in Scotland."

It says nothing about resource and nothing about revenue.

The Cabinet Secretary for Health and Wellbeing (Alex Neil): Read on.

The Presiding Officer: Order. Let us hear Mr Brown, please.

Gavin Brown: Okay, I will read on.

The First Minister (Alex Salmond): I read it out this morning.

Gavin Brown: It goes on to say:

"Scotland's National Health Service will receive in full the Barnett consequentials from increases in health spending down south."

That is the end of that section, or pledge, on the NHS in relation to the budget. Does Mr Swinney's statement meet the commitment on page 3 of the SNP manifesto? No.

The First Minister: I read it out this morning, as Mr Brown is well aware.

The Presiding Officer: Mr Salmond! Stop heckling.

Gavin Brown: That one seems to have gone down well, Presiding Officer.

Secondly, in relation to the tax announcement that he has just made, how can the cabinet secretary justify an eye-watering 10 per cent tax on houses over the value of £250,000?

There are pockets of this country, such as Edinburgh, where family homes for hard-working families cost considerably in excess of that figure. We all understand that the tax increases as houses go up in value, but I think that that 10 per cent is difficult to justify.

Will the cabinet secretary also confirm that the non-residential rates that he read out—3 per cent on anything over £150,000 and 4.5 per cent on anything over £350,000—will make investing in Scotland less competitive than other parts of the UK?

Finally, Presiding Officer—[*Interruption.*] I still have the First Minister in stereo in my ear, which is making things difficult. It is so nice to see him actually here in the chamber—

The Presiding Officer: Mr Brown, just get it on with it, please.

Gavin Brown: Lastly, the cabinet secretary said that this is a budget for business and the economy. He is doing work on internationalisation via the enterprise agencies. However, a year ago he said that those agencies were going to get £400 million, but he now plans to give them £341 million. Will he confirm that he is giving them

almost £60 million less than he said he was going to give them a year ago?

John Swinney: First of all, I want to read Mr Brown the quotation from the 2011 Scottish National Party manifesto, which says:

“We recognise that if we want to have a first-class health service in Scotland the resources need to be there. That is why we have guaranteed that the revenue budget of the Scottish NHS will be protected in real terms.”

That is the commitment, and that is what has been followed by the Scottish Government.

Mr Brown's second point was about the tax rates. I hear what he says about the issues arising from the judgments that I have made, but the fact is that average property prices in Scotland are significantly below the threshold at which individuals would have to pay more under the proposals that I have set out than they do under the current system. The judgments that have been made are therefore fair.

I also point out to Mr Brown that, as I said in my statement, 90 per cent of taxpayers will be either better or no worse off than they would have been under SDLT. Mr Brown voted for the land and buildings transaction legislation, as did all his colleagues. They essentially signed up to the tax being progressive and its relating to a person's ability to pay, and my announcements today are the consequence of taking a balanced approach to individuals' ability to pay in the light of the point that I have made about average house prices across Scotland.

On Mr Brown's question about investment in the non-residential sector, I point out that 95 per cent of non-residential taxpayers will be either better or no worse off than they are under SDLT. Moreover, there is every evidence, given the strength of the Scottish economy, of Scotland's attractiveness as an investment destination.

Finally, Mr Brown asked me to confirm that I had reduced the amount of money that will be available to the enterprise networks. He is absolutely correct. I see him going for his budget document—perhaps he thought I was going to dispute his point, but he is absolutely correct. I have taken money away to invest it in housing. I make no apology for doing so.

Willie Rennie (Mid Scotland and Fife) (LD): I thank the finance secretary for the advance copy of his statement. I welcome the progressive nature of the taxes that he has set out and the fact that they are based on the ability to pay. That is something that we can agree with.

It was also good to hear Mr Swinney proclaim the economic progress that we have made across the United Kingdom since this coalition Government came to power and, in that spirit, I

commit our party again to working with him constructively this year in order to agree this budget. We have made a mark on previous budgets with regard to, for example, free school meals, childcare and colleges, and we will be seeking to do so again this year on childcare, to ensure that Scotland catches up with the level of provision in England. We will do so on colleges in order to ensure that we take funding back to the 2011 levels that it still lags behind. We will do so on mental health, in order to ensure that it gets the priority that it deserves, and on transport for the north-east and the Highlands and Islands. Will he agree to work constructively with us and our party on those priorities in order to make a big mark on this budget?

John Swinney: I welcome Mr Rennie's remarks. He is absolutely correct that, on various occasions, his party and the Government have been able to come to agreement on budget provisions. I commit myself to working constructively with him on the budget and on the implementation of the vow, to ensure that there is no backsliding by anybody who signed up to the vow, in any way shape or form. [*Interruption.*] Mr McNeil would know about backsliding, believe you me.

Mr Rennie raised a number of substantive issues—I mean in particular his point about mental health. We will be happy to explore the issues. The First Minister explained at First Minister's question time just a while ago the importance that we attach to ensuring that mental health services are given the priority that they deserve. If Mr Rennie wishes to raise those issues with me, I will of course consider them with the Cabinet Secretary for Health and Wellbeing and other ministers.

The Presiding Officer: We need to make progress. Many members want to ask questions.

Kenneth Gibson (Cunninghame North) (SNP): I warmly welcome the positive statement from the cabinet secretary. However, as convener of the Finance Committee, I record my concern that, as the cabinet secretary sets the rates and bands for the new devolved taxes, we still have no clear indication from the Treasury as to what impact that will have on the Scottish block grant because of the UK Government's failure to address adequately the issue of the block grant adjustment. Does the cabinet secretary agree that UK Treasury politicking not only stands in stark contrast to the constructive approach that the Scottish Government has taken to the taxes, but raises concerns over the delivery of further devolved taxes, as promised by the unionist parties?

John Swinney: As Mr Gibson knows from his convenership of the Finance Committee, the block

grant adjustment has been under discussion for a considerable time. One reason why we have not reached agreement is that the United Kingdom Government has advanced a mechanism that would alter the Barnett formula. I do not think that Parliament should be surprised that I cannot agree to that. Of course, that has now been contradicted by the contents of the vow, which assured us of the maintenance and continuity of the Barnett formula. So, in the light of the emergence of the vow during the referendum campaign, I make it absolutely clear that a mechanism that alters the Barnett formula is unacceptable to the Government. I have, of course, proposed alternative mechanisms that would allow us to resolve the issue; I look forward to doing that with the Chief Secretary to the Treasury and other UK ministers, in due course.

Jenny Marra (North East Scotland) (Lab): Last week, the Institute for Public Policy Research said that the UK needs 87,000 more engineers by 2020. However, as the college term started in Scotland, 818 young people who applied to study engineering at Dundee and Angus College could not get places because of the lack of money from the Government. That is 818 young people. What will the budget do for the engineering skills gap in Scotland and the hundreds of youngsters in the country who just want places at college?

John Swinney: The first thing that I am going to do is to check the figures that Jenny Marra has put forward, because from the experience of a number of my colleagues, it seems that figures are normally pretty dodgy when they come from her. *[Interruption.]*

The Presiding Officer: Order.

John Swinney: That is the first thing that I am going to do, before I give a definitive answer.

Secondly, I will point out the various measures that the Government is taking to support the development of skills among young people in Scotland. I set out the £526 million financial commitment that has been made to the college sector in Scotland, which is a higher level of funding than in any year when the Labour Party ran the Administration in Scotland. That is a higher level of performance than the Labour Party.

We will implement the provisions of the commission for developing Scotland's young workforce, with an additional £16.6 million of expenditure to add to the financial provision in 2014-15. *[Interruption.]*

The Presiding Officer: Ms Marra, resume your seat.

John Swinney: We will work with Skills Development Scotland, colleges and other organisations to ensure that the needs of

Scotland's young people will be met. That will be done through the funding commitments that the Government has made as part of the budget settlement.

Aileen McLeod (South Scotland) (SNP): I welcome the cabinet secretary's commitment to increase national health service spending above the Barnett resource consequentials. Can he confirm that, while other parties in the chamber talk about the need to review whether our NHS is sustainable, the Government will continue to ensure that it is sustainable and that it remains in public hands and free at the point of need?

John Swinney: The Government has fulfilled its commitments to invest in the national health service, as we promised we would do, and we have exceeded those commitments today by setting out additional resources. The Cabinet Secretary for Health and Wellbeing will make clear how those resources will be allocated in due course, but I can reassure Aileen McLeod of the Government's determination to keep the health service in public hands and, most important, to ensure that it is well funded and well supported to carry out the vital work that it does on behalf of all of us in Scotland's communities.

James Kelly (Rutherglen) (Lab): When I talk to housing associations across the country about how to tackle the housing crisis, one of the issues that keeps coming up is the level of housing association grant, which is currently at £58,000 and is seen as a barrier to future house building. Of the £125 million that has been identified to support housing, how much will be used specifically to support housing associations, and will any of it be used to increase the level of HAG?

John Swinney: I am sure that Mr Kelly is aware that the Government recently increased housing association grant, which I know from the feedback that I have received has helped to assist with development programmes. Only yesterday, I visited an excellent development by Castle Rock Edinvar Housing Association in Craigmillar, in the constituency of the Cabinet Secretary for Justice. It is an excellent programme that is regenerating the wider Craigmillar area in a fantastic way.

The £125 million will be available for a variety of different housing investments. We expect that a significant proportion of that will be available in the affordable housing market, and ministers will set out in due course how those resources will be deployed.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): Can the cabinet secretary confirm what support is available in the budget to help to meet the Scottish Government's climate change targets?

John Swinney: The Government has a range of different measures, including the support that we have put in place for energy efficiency and the new resources for the sustainable and active travel programme, which will assist in the development of walking and cycling infrastructure. There will be investment under the enterprise brief for renewable energy projects to support the Government's wider economic ambitions, and we will take forward a variety of investments to make the Government's own estate more energy efficient, and we encourage other public bodies to do so into the bargain.

Jackie Baillie (Dumbarton) (Lab): I thank the cabinet secretary for his statement. He accused Mr McNeil of backsliding, but is he not himself backsliding on his vow that the scheme to mitigate the bedroom tax would be in place for April of this year, as promised by him, although it is not yet in place? He will be aware that people are being pursued for arrears of bedroom tax from 2013-14 and threatened with eviction. Given the agreement between the Scottish Government and Labour to fully mitigate the bedroom tax, will he take action to ensure that people in arrears from 2013-14 have their debts removed?

John Swinney: I know that the Labour Party keeps peddling that point, but I must tell Jackie Baillie that there is a legislative process that has to be gone through. I should add that the Scottish Government has no complaint about how that process has been handled by David Mundell in the Scotland Office and by the UK Government. The process is taking its course and we expect the orders to clear the House of Commons on 14 October. From there, they will go on to the House of Lords and we believe that they will emerge from there on 27 October, and we hope that the order may be made by Her Majesty in council on 6 November. I am not sure whether I have revealed a state secret by disclosing that fact, but that is the timetable that we are working to.

In the meantime, a letter of comfort has been issued by the Department for Work and Pensions, by the Scotland Office ministers and also by the Deputy First Minister on behalf of the Scottish Government, assuring local authorities that they can spend in excess of their current cap to address any issues about payments relating to the bedroom tax during the current financial year, while we wait for the legislation to take its course. That is what I call a belt-and-braces approach to ensuring that we mitigate in full the effects of the bedroom tax in Scotland.

John Mason (Glasgow Shettleston) (SNP): I think that it is exciting that we now have tax as part of the budget for the first time since 1706.

Can the cabinet secretary confirm that the progressive approach that he has taken today with

land and buildings transaction tax will be a benchmark for future taxation policy when we get more substantial tax powers in this Parliament?

John Swinney: It is always the accountants who get excited about tax matters.

It is important that, at the outset of exercising tax responsibilities of this nature, we make clear the values that underpin the Government's decisions. We have set out openly and clearly in the legislation that was put to Parliament that we believe that taxation should be progressive. We embedded that value in the Land and Buildings Transaction Tax (Scotland) Act 2013, and I believe that it is an important value. It was bequeathed to us by Adam Smith in 1776 and it is as relevant in 2014 as it was in 1776.

Ken Macintosh (Eastwood) (Lab): I was intrigued by the cabinet secretary's line that he intends to

"maintain our plans to increase funding for further education".

Last year, the Auditor General for Scotland identified a real-terms cut in college funding between 2012 and 2015. Can the cabinet secretary confirm that today's flat cash settlement for colleges maintains that real-terms cut to colleges over the three years? If not, can he tell me exactly how many of the 140,000 Scots who would have been denied a place at college will be given that vital opportunity?

John Swinney: The budget for colleges in 2014-15 was £521.7 million. The budget that is proposed in the document today is £525.7 million. The words that I used were absolutely correct: there is an increase in college funding as a consequence of the budget.

The Scottish Government committed to maintaining the number of full-time-equivalent college places at 116,000. We delivered 116,399 in 2012-13, the last year for which records are available, and the Government's funding settlement is designed to achieve exactly that.

Kevin Stewart (Aberdeen Central) (SNP): I welcome the cabinet secretary's confirmation that local government will continue to benefit from a fair funding settlement. Will he set out how this year's settlement compares with that of previous years?

John Swinney: The best way to make a comparison is to look at the increase in the revenue resources under the Scottish Government's control between 2013-14 and 2015-16, which was 1 per cent. Over the same period, local government revenue funding has increased by 2.6 per cent. In a very tight financial settlement—I do not for a moment underestimate the financial challenges that are faced by public

bodies, local authorities and everybody in the public sector in the delivery of public services—we have demonstrated our commitment to ensuring that local authorities are well funded by the Scottish Government.

Patrick Harvie (Glasgow) (Green): I thank the cabinet secretary for the advance copy of his statement, in which he claims that this is the first time in a very long time that a finance minister has been able to set national tax rates in Scotland. However, non-domestic rates are set centrally and—as has been confirmed in the budget statement—this is the eighth year in which council tax is subject to centralised control by the Scottish Government. If we want to ensure that local government budgets in the future are not subject to strain through the setting of national budgets, surely it is about time that council tax—an extremely regressive, unfair tax that has been unreformed since the beginning of devolution—and the financing of local government are made the subject of creative debate and we start to get some solutions to the problem. We cannot afford to fudge the matter any longer.

John Swinney: Mr Harvie makes his point firmly. He will be aware that the Local Government and Regeneration Committee has encouraged discussion about the whole issue of local authority funding, which has also been raised in the report of the commission on strengthening local democracy, which was chaired by the president of COSLA. There is obviously space for that debate to take place.

In 2011, the Scottish Government made a commitment to work with others during this parliamentary session to consider what alternatives it might be possible to take forward to replace the council tax. I have many of the same views and feelings about the council tax as Mr Harvie. The Government will fulfil that manifesto commitment during this session.

Bob Doris (Glasgow) (SNP): My constituents in the Glasgow region will welcome the £81 million pledge to tackle some of the worst aspects of UK welfare reform, including by fully mitigating the bedroom tax and supporting the Scottish welfare fund. Will the cabinet secretary also do all that he can, within the constraints of this Parliament, to defend our working poor, who are under attack from the current, right-wing Tory UK Government?

John Swinney: One of the measures that the Scottish Government has pursued—to some significant criticism, it has to be said—has been the freeze in the council tax, which protects the working poor in Scotland. It is a tax for which many of the working poor will not get support. The Government interrupted the sky-high increases in council tax that were taking place. We gave

protection to householders in Scotland and we gave them the assistance that they required.

I quite understand the issue that Mr Doris raises. There is a certain range of interventions that we can make. For example, our provisions on childcare assist the working poor in Scotland. The frustration that I have is that, while we are trying to take those good, substantive measures to support the working poor in Scotland, the Conservative and Liberal UK Government is making the issues much worse.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Apart from full bedroom tax mitigation, which Labour ensured was in last year's budget, is it not the case that the "Tackling Inequality" section of the budget is full only of warm words signifying very little for those who are the poorest and most disadvantaged in society? Is it not time that we had a comprehensive assessment of the effect of all policies and budget lines on poverty, rather than a bland equality statement that says very little about poverty and ignores specific budget lines and policies?

John Swinney: I do not think that Malcolm Chisholm's remarks are particularly fair, given the fact that the Equal Opportunities Committee has supported the Government on a number of occasions and has encouraged it regarding the quality and scrutiny of the equalities impact assessment that the Government now publishes on an annual basis as part of the budget.

I do not think that Malcolm Chisholm does his case much good by denigrating the judgments that committees make about the work that the Government takes forward. I encourage Mr Chisholm to read the material in the budget document about inequality. There is plenty of material in there that goes through specific, tangible mechanisms, through which the Government is trying to support individuals who face real difficulty.

Malcolm Chisholm has a bit of a brass neck to come here and complain to me about the difficulties that people are facing when his party, if it is successful in the elections in May 2015, is going to freeze child benefit. How on earth is that going to help people as they struggle to overcome the difficulties that have been created by the Conservative Government?

Maureen Watt (Aberdeen South and North Kincardine) (SNP): I welcome the £4.5 billion of investment in infrastructure that is set out in the budget and the additional funding of £125 million for housing. Can the cabinet secretary set out how that money will help to address inequality and poverty in our communities?

John Swinney: I set out the additional resources that are being made available to the

housing sector within the context of the discussion on inequality. I saw a very good example of what the housing investment enables us to do on my visit yesterday to the Castle Rock development in Craigmillar. That is not just a construction project of new houses—beautiful though the houses are, with first-class craftsmanship. It has also been a successful project for regenerating the whole community, bringing new economic opportunities into the locality.

As somebody who was born and brought up in Edinburgh, I was thrilled yesterday to see the transformative effect of such a project in Craigmillar, which has been an area of persistent multiple deprivation over many years—indeed, over most of my lifetime. Projects of that nature can have an effect by creating employment and the benefits of regeneration and by attracting new economic opportunities into a locality. That is exactly how we will take forward the investment of that resource.

Neil Bibby (West Scotland) (Lab): At the Education and Culture Committee meeting on Tuesday, Mike Russell said:

“As for teacher numbers, I am very keen to maintain and, if possible, expand them.”—[*Official Report, Education and Culture Committee*, 7 October 2014; c 27.]

That was a bit surprising, given that Mr Russell and the Scottish Government have cut teacher numbers by nearly 4,000 since they came to power. The Educational Institute of Scotland has described those comments as a highly significant development—

The Presiding Officer: Can we get a question, Mr Bibby?

Neil Bibby: —in the same week that the Scottish Parent Teacher Council raised concerns about a shortage of teachers. I therefore ask Mr Swinney to give us a clear answer: how many more teachers will the budget provide, and will those teachers be in classrooms next August?

John Swinney: Generally, teachers are in classrooms in August. The last time I looked, they were generally in classrooms in August but maybe Mr Bibby thinks that teachers are never—[*Interruption.*]

The Presiding Officer: Order.

John Swinney: I do not understand the point that Mr Bibby is making, to be honest.

In relation to the question about teacher numbers, local authorities are obviously the employers of teachers. The Government engages in discussion with local authorities about the strength and the size of the teaching profession. That is part of our discussions with local government. We are going to embark on

discussions with local government about how we assess the achievement of educational outcomes in the course of the next few months, and of course there will be full discussion and consideration of those issues within Parliament in due course.

Jackson Carlaw (West Scotland) (Con): There are currently eight council tax bands and six UK property tax bands. I think that the cabinet secretary announced four bands today.

Contrary to how the cabinet secretary might characterise it, there are people living in communities such as East Renfrewshire and elsewhere who are not rolling in it but who find that property values are affected by the reputation of local schools.

Would it not have been possible for the cabinet secretary to introduce a more progressive series of bands between £250,000 and £1 million to ensure that families who find that they live in communities where schooling affects the price of homes, not necessarily their ability to pay, are not being swingeingly taxed on their children's education?

John Swinney: Obviously, this is a draft budget and Mr Carlaw is free to advance his propositions in relation to it. However, I would like to share with him some of the dilemmas I face in looking at the issue.

One issue is that, if I want the proposals to be revenue neutral, the money has to come from somewhere. Mr Carlaw might take a different view on that point; he might think that we could do without a certain amount of the revenue. However, my view is that, when those taxes are transferred to the Scottish Parliament, they should be revenue neutral on this occasion so that we can sustain the investment in public services. Therefore, the money has to come from somewhere.

If I want to try to respond positively to what I am hearing from the construction and development market about the necessity of encouraging and motivating first-time buyers to get into the market, I have to find some way of balancing the revenue over the whole of the tax-paying population. I have made my judgments and I can be scrutinised on them and held to account for them, but that is the rationale behind them.

I understand that there will be areas of the country where there are some implications because house prices will be differently set than in other areas, but I have tried to exercise a judgment where the crossover point between people having to pay more rather than less under the land and buildings transaction tax is set not at £250,000—as Mr Johnstone was alleging in the newspapers on Monday—but at £325,000, which

is significantly higher than the level that Mr Johnstone was pursuing on Monday.

This is a draft budget and there will have to be orders and so on, so Mr Carlaw is quite entitled to pursue his point of view. I simply ask him to consider some of the other dilemmas and issues that I have to wrestle with to ensure that the budget is revenue neutral and that it encourages and incentivises the wider property market within Scotland.

Jean Urquhart (Highlands and Islands) (Ind):

I would like to acknowledge the increase in money for housing. The fact that the cabinet secretary was honest enough to say that the money came from the enterprise budgets—Scottish Enterprise and, presumably, Highlands and Islands Enterprise—is welcome because, in the region that I represent, economic development is often seen as starting not with 150 or 400 houses but with four or five houses, which is enough to make a difference.

I ask that that fact is given some consideration in the spread of the money, because building just two houses in small communities in the Highlands and Islands can often make the difference in keeping a small builder and a number of other people in work and in regenerating the economy.

John Swinney: That is a very fair point. As I look at the affordable housing supply programme, the 2015-16 allocations are spread across every local authority. For example, in Highland Council, which is in the mainland area that Jean Urquhart represents, £16.642 million is allocated for affordable housing in the Highlands and Islands. I appreciate that, if even a small proportion of that money is spent in communities such as Ullapool, Kinlochbervie or other areas in the far north-west, that will have a disproportionate effect.

The point is well made. The Government takes every measure that we can to ensure that we encourage the uptake of and participation in such programmes around the country, because the same regenerative opportunities that I talked about in Craigmillar in the heart of our capital city are just as relevant in some of the more fragile communities in the north and north-west.

Register of Interests for Members of Scotland's Judiciary

The Deputy Presiding Officer (Elaine Smith):

The next item of business is a debate on motion S4M-111078, in the name of David Stewart, on petition PE1458, which is on a register of interests for members of Scotland's judiciary.

15:32

David Stewart (Highlands and Islands) (Lab):

A few short years ago, the Parliament sent me to Johannesburg in South Africa to address a major conference on the role of public petitions. After I did so, a young American professor took the stage. He told the story of President Kennedy visiting the space agency, NASA. During the tour, the President talked to an elderly cleaner who was washing the canteen floor. The cleaner told him that he had worked for NASA since its inception in 1958 and that his job was to put a man on the moon. The Public Petitions Committee does not aspire to put a man on the moon; rather, it aspires to be a window of the Parliament, to be accessible and to go the extra mile for each and every petitioner.

There is no magic wand, but we acknowledge our successes, including successful petitions on cancer drugs, pain relief and mesh devices. I welcome the opportunity that has been given to the committee to highlight the issues that Peter Cherbi raises in his petition, which seeks a register of interests for Scotland's judiciary. I thank all the committee's members and all those who provided evidence.

Mr Cherbi petitioned Parliament seeking the creation of a register of the pecuniary interests of judges bill. His petition was lodged in Parliament at the end of 2012; since then, the committee has been listening to the arguments in favour of and against the proposal. I should say that part of Mr Cherbi's motivation in introducing the issue was the consideration in New Zealand of a members' bill by Dr Kennedy Graham of the New Zealand Green Party. I understand that that bill had its origins in the resignation of a former New Zealand Supreme Court judge who was accused of misconduct for allegedly failing to disclose a large debt that he apparently owed to a lawyer who was appearing in a case before him.

The committee's motivation in giving consideration to the issue and in seeking time in the chamber to debate it is a point of principle and comes from the starting point of there being an assumption of openness and transparency in all areas of public life in order to shine a light, if you like, into every corner of Scottish society.

The petitioner said that the catalyst for his petition was Scottish media investigations into members of the judiciary here. He told the committee that the investigations had revealed a number of criminal charges and convictions. He pointed out that there is now greater public expectation of transparency and accountability across all branches of public life, and that the judiciary has a duty to be accountable to the wider community and should be expected to adhere to the standards that apply to other people in public life, including members of the Scottish Parliament, ministers and members of Parliament.

This Parliament prides itself on being open and accessible. That is a cornerstone of the institution, which was developed by our founding fathers from the work of the Scottish Constitutional Convention. Members of the Public Petitions Committee seek to champion that approach across all areas of public life in Scotland.

I support an independent judiciary, which is a crucial element in the separation of powers between judiciary and legislature. The committee's motivation in considering the petition was in no way about interfering with judicial independence. Rather, it was about reflecting on whether reasonable modern-day public expectations about transparency are being met.

Prior to the creation of the Supreme Court in 2009, the highest court was the Appellate Committee of the House of Lords. The law lords were bound by the House of Lords disclosure rules, under which financial interests must be declared. There is therefore a precedent in that regard.

For the most part, Scotland and its institutions have a good track record of openness and accessibility. In exercising its scrutiny function, this Parliament has worked to bring about improvements in those areas. However, a good track record is not sufficient reason to say that we should not stop and think about what is done and how it might be improved.

We contacted Dr Graham in New Zealand about his Register of Pecuniary Interests of Judges Bill. He told us that the judiciary in New Zealand is not overly enamoured of the suggestion of a register of interests. I think that that is a fair assessment of the position of the judiciary in Scotland, too. Dr Graham told us that the New Zealand chief justice and president of the Court of Appeal testified before the select committee that was dealing with the bill. As members might be aware, the Public Petitions Committee invited Lord Gill, the head of Scotland's judiciary, to come to the committee to give evidence. Lord Gill declined to attend a meeting of the committee. That is, of course, his prerogative, but the committee is on record expressing disappointment about not being able to

hear from Lord Gill in person at one of its formal meetings. However, the deputy convener, Chic Brodie, and I met Lord Gill informally in Parliament to discuss the petition, and our discussion was useful.

When the committee first sought views on what the petition seeks, we were told by the judiciary and the Scottish Government that the existing safeguards are sufficient. The first of those is the judicial oath that must be taken by all judicial office-holders. In the oath, office-holders swear to

"do right to all manner of people ... without fear or favour, affection or ill will".

The second safeguard is the "Statement of Principles of Judicial Ethics for the Scottish Judiciary", which was published in 2010 and updated in 2013. The statement provides guidance for judges and draws attention to areas of potential sensitivity.

The third safeguard to which we were directed is the Judiciary and Courts (Scotland) Act 2008, which contains provisions to regulate and investigate the conduct of judicial office-holders, and contains rules for dealing with complaints about judicial office-holders.

The petitioner has argued that no statistical or analytical information is available that records whether and how frequently declarations of interest are being made. I will come back to that point.

The committee received evidence from Moi Ali, who was at that time the Judicial Complaints Reviewer. The role was created by the Scottish Government, to review the Judicial Office for Scotland's handling of investigations into members of the judiciary and ensure that complaints had been dealt with fairly. Ms Ali has since moved on; I wish her well in her current and future roles. The written and oral evidence that she provided to the committee was well thought through and thought-provoking.

Ms Ali made it clear that in her role as Judicial Complaints Reviewer she supported what the petition called for. Her view was that a register of interests would increase the transparency of the judiciary and contribute to public confidence in the judiciary's actions and decisions. She told us:

"Transparency tends to increase trust; conversely, lack of transparency is more likely to create suspicion."

In many ways, that simple statement goes to the heart of the issues that have come up during our consideration of the petition.

In Ms Ali's view, what is required of the judiciary should not be out of line with what is required of others who hold high public office. She told us that she had dealt with a complaint about a judge who had allegedly used their position to promote a

body that was alleged to have breached international law. In another case, she dealt with a complaint about a sheriff who allegedly participated in a social function that had been organised by a lawyer who had appeared before him at an earlier proof hearing. We did not receive any information about complaints received or considered from the judiciary.

A judicial office-holder will recuse him or herself—that is, decline to hear the case—in situations where it is felt that there is a potential conflict of interests. Until recently, there was no published information about when and in what circumstances recusals took place, but after the committee's interest, I raised the recording of recusals directly with the Lord President. Lord Gill agreed to ensure that information on recusals is publicly available. Therefore, since April this year, all recusals and the reasons for them have been published on the judicial website; 14 such incidents have been notified.

The move to make more information available is welcome—for example, in April at Forfar sheriff court, Sheriff Veal personally knew a witness and correctly recused himself—but some feel that that does not go far enough. The published information relates to instances in which a judicial office-holder has recused himself or herself. What about the instances—no matter how rare—of a judicial office-holder not being willing to recuse himself or herself, despite having received representation? I am not clear where someone could get that information. Is it recorded? Is it available publicly? If not, is there a reason for its not being available? I understand that the complaints that the Judicial Complaints Reviewer saw were more about failure to recuse than about the lack of information on the recusals that took place.

What recourse does someone have when an allegation of a conflict of interests comes to light after a court case has been heard? If there is no means by which someone is able to check in advance whether there is potential for any conflict of interests, there is likely to be a sense of grievance if something comes to light after a court case has been heard and decided. Could a register of interests avert the need for such complaints by enabling people to make an informed decision to challenge any perception or allegation of conflict of interests at the time, rather than after a case has been decided?

On the other hand, the Lord President is concerned that the introduction of a register of interests could have unintended consequences and that consideration must be given to judges' privacy and freedom from harassment by aggressive media or hostile individuals. Of course, that is right, but would a register of interests

increase the risks that judicial office-holders face in that regard?

I hope that I have set out some of the questions on which it would be useful for us to reflect. I understand that the New Zealand bill was ultimately withdrawn on the basis that agreement was reached to improve the rules on recusals and conflicts of interests. I am pleased that agreement was reached there and that the issues were discussed openly. I welcome the opportunity to debate the issues that the petition raises and I look forward to hearing colleagues' views.

I move,

That the Parliament notes Petition PE1458, in the name of Peter Cherbi, on the issue of a register of interests for members of Scotland's judiciary; welcomes the petitioner's efforts to highlight what it considers to be an important matter, and commends the issues raised to the Scottish Government for further consideration.

15:43

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): Today's debate provides an opportunity to consider the issues related to a register of interests for the judiciary—a subject that has been discussed by the Public Petitions Committee over recent months, as the convener, David Stewart, outlined.

It is, of course, vital that judges be seen to be both independent and impartial. They must be free from prejudice by association or relationship with one of the parties to a litigation. They must be able to demonstrate impartiality by having no vested interest that could affect them in exercising their judicial functions, such as a pecuniary interest or familial interest.

As I understand it, the petition originally concerned a register of pecuniary interests for the judiciary. It called on the Scottish Parliament to urge the Scottish Government to create a register of pecuniary interests of judges bill, as was then being considered in New Zealand's Parliament, or to amend present legislation to require all members of the judiciary in Scotland to submit their interests and hospitality received to a publicly available register of interests. That is a narrower definition of the register than the convener talked about.

The Scottish Government considers that it is not necessary to establish a register of judicial interests. Our view is that the safeguards that are currently in place are sufficient to ensure the impartiality of the judiciary in Scotland. Those important safeguards are: the judicial oath, the "Statement of Principles of Judicial Ethics for the Scottish Judiciary", which was issued by the Judicial Office for Scotland in 2010, and the Judiciary and Courts (Scotland) Act 2008.

I will look at those three safeguards in a little more detail. The judicial oath, which is taken by all judicial office-holders before they sit on the bench, requires judges to

“do right to all manner of people ... without fear or favour, affection or ill will”.

The statement of principles of judicial ethics states at principle 5 that all judicial office-holders have a general duty to act impartially. In particular, it notes:

“Plainly it is not acceptable for a judge to adjudicate upon any matter in which he, or she, or any members of his or her family has a pecuniary interest. Furthermore, he or she should carefully consider whether any litigation depending before him or her may involve the decision of a point of law which itself may affect his or her personal interest in some different context, or that of a member of his or her family”.

The Judiciary and Courts (Scotland) Act 2008 contains provisions to regulate and investigate the conduct of judicial office-holders. Under section 28, the Lord President has a power to make rules for the investigation of

“any matter concerning the conduct of judicial office holders”.

The Complaints about the Judiciary (Scotland) Rules came into force in 2011. There was a consultation on those rules last autumn, responses to which the Lord President has considered, and new rules and accompanying guidance will be published in due course.

Jim Eadie (Edinburgh Southern) (SNP): In reaching the conclusion that the introduction of a register of judicial interests would not be appropriate at this time, did the Scottish Government consider and evaluate the Council of Europe group of states against corruption—GRECO—report that looked specifically at that matter? Did that help to inform the Scottish Government’s thinking?

Roseanna Cunningham: We have looked at that report. I will refer to it shortly, if I have the time.

In addition, members will be aware that the Scottish Court Service has set up a public register of judicial recusals, which has been in operation since 1 April 2014. David Stewart mentioned it. The register sets out why a member of the judiciary has recused himself or herself from hearing a case in which there is a conflict of interests. Although that does not go as far as the petition suggested, we believe that it is a welcome addition to the safeguards that I have already covered.

The setting up of a register of judicial interests would be a matter for the Lord President, as head of the judiciary in Scotland. The Lord President takes the view that a register of pecuniary

interests for the judiciary is not needed. Furthermore, a judge has a greater duty of disclosure than a register of financial interests could address.

Neil Findlay (Lothian) (Lab): Will the minister take an intervention?

Roseanna Cunningham: I want to make some progress.

The statement of judicial ethics that I referred to says that a judge’s disclosure duties extend to material relationships. In his written evidence to the Public Petitions Committee, the Lord President referred to the findings of the Council of Europe group of states against corruption. The 2013 GRECO report, which followed the fourth evaluation round report on the United Kingdom, found that

“nothing emerged during the current evaluation which could indicate that there is any element of corruption in relation to judges, nor is there evidence of judicial decisions being influenced in an inappropriate manner.”

GRECO therefore did not recommend the introduction of a register of judicial interests, which suggests that the current safeguards are sufficient and that there is no obvious problem that such a register would solve.

The position is, of course, different for MSPs and for members of other Parliaments. We are directly accountable to our constituents and are required to register our interests. GRECO also considered issues regarding the prevention of corruption in relation to members of Parliaments across the UK and recommended:

“it is essential that the public continues to be made aware of the steps taken and the tools developed to reinforce the ethos of parliamentary integrity, to increase transparency and to institute real accountability.”

David Stewart: Will the minister take an intervention?

Roseanna Cunningham: If David Stewart will permit me to, I want to move on; I want to get through my speech.

I am aware that the petition in question was related to the Register of Pecuniary Interests of Judges Bill in the New Zealand Parliament, which was considered earlier this year by its Justice and Electoral Committee. As David Stewart indicated in his opening remarks, the bill did not proceed. As I understand it, the committee recommended that the bill should not be passed and, following that report, the sponsoring member intended to withdraw it.

It is also the case that there is no equivalent register in other parts of the UK. As I have said, we do not think it necessary to establish such a register. The case has not been made that the existing safeguards are not effective. I can only

assume that members agree with that, because we completed stage 3 of the Courts Reform (Scotland) Bill on Tuesday. That bill could have been used as a vehicle for legislating for the introduction of a register of judicial interests. I am surprised that an amendment to that effect was not, if members are exercised by the issue, lodged during consideration of the bill.

However, today is an opportunity for wider consideration of the issue, and I look forward to hearing what others have to say. I will perhaps return to some of the issues that are raised in my closing remarks.

The Deputy Presiding Officer: We have a bit of time in hand, if members wish to take interventions—although that is, of course, entirely up to them.

15:50

Graeme Pearson (South Scotland) (Lab): I will make some general comments before addressing some of the key issues in the motion. We persistently discuss the need to deliver a fair, just and transparent system, not only of government but of public law and administration. In that context, I welcome the petition from Peter Cherbi to the Public Petitions Committee.

I commend, too, David Stewart and the members of his committee for taking seriously the content of the petition and for recommending that we discuss it in public here in the chamber. The petition raises issues that cause concern in the world generally, and which can cause concern to some of our constituents. Many of us will have received comments from constituents displaying reservations about their dealings with the courts and sometimes raising issues.

Furthermore, I welcome the opportunity to celebrate publicly the integrity of our judiciary. In my involvement with the judiciary over the years, I have been impressed by the nature of the work that it does and the solemnity with which it approaches its difficult tasks. That said—as was referred to earlier—Moi Ali, the former Judicial Complaints Reviewer, made fairly strident comments in connection with her work. She indicated that she felt that she had no power to make things different and better. It is worth our while to consider for a moment that although Parliament should not always seek to deal with problems that are identified, sometimes it is our duty to deal with the perception that there is a problem in order to ensure that, in the years ahead, we demonstrate fairness and transparency in all that we try to achieve on behalf of citizens.

Lord Gill indicated that he saw no point in introducing a register of interests for members of Scotland's judiciary. He said that he relied on a

judge recusing him or herself if they identified a perceived or actual bias. That places extreme pressure on a judge, before the commencement of proceedings, to examine their soul and consider all possible circumstances.

Until the petition was discussed, there was no knowledge of recusals in the public domain. I welcome the fact that, as of April this year, the Lord President has introduced a register of recusals. It is fair to say that without the petition and the work of the Public Petitions Committee, such a register would probably not have been considered.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Would the member agree that the welcome addition of the register of recusals will help us in the future to understand the nature and scope of the ways in which judges have to stand down? I suspect that it might show us that financial considerations are the least of it. However, until we see the results, that is speculation, and merely a personal opinion.

Graeme Pearson: I am sure that the viewpoint that Mr Stevenson has expressed is right. I doubt that financial considerations will figure because, all too often—certainly in the media and the contents of postbags—it is about people's perceptions of judges belonging to various groups and associations. I would not seek to indicate which groups and associations, because that would merely create heat instead of light. Nevertheless, the perception that those on the bench are in some way influenced by their various connections creates concern among the general public and elements of the press.

My approach has always been that it is sometimes better to be up front in those matters and to record things in a register, even although people will lose an element of privacy. I understand the threat that may attach to that in the pressures that judges could face in the future, and wonder whether there is a way in which we could, once we have given some thought to the matter, create a register that would not be used by those who would be vexatious to attack or pursue our judiciary, but would give us confidence that our courts operate for the best outcomes for the future.

I look forward to hearing what other members have to say on the subject.

15:56

Jackson Carlaw (West Scotland) (Con): I found the debate particularly difficult to prepare for—so much so that I have come with nothing to say.

Roseanna Cunningham: I do not believe that.

Jackson Carlaw: I have nothing prepared to say. I thought that I would listen carefully to the arguments that were presented and then comment.

I want to deal with the matter in two ways. I want to deal with the issue at hand in the petition and with the way in which the Lord President responded to it.

I always thought that the petition was rather curious, as it was based on something that might be going to happen in New Zealand. I was never entirely impressed with it, but I thought that, as the issue had been raised, it was perfectly appropriate for the Public Petitions Committee to seek to find out the response of the Scottish Government and the Lord President.

I should say that, among my parliamentary colleagues—I will not name anyone—I have been told quite clearly, “We don’t want any of that.” [Laughter.] However, the minister identified quite ably why we should have confidence in the current process and why I am not persuaded that we need a register of interests. There is the judicial oath, there is the statement of principles of judicial ethics and there is the Judiciary and Courts (Scotland) Act 2008. Either we take the view that we appoint the judges and have confidence in the judges whom we appoint, or we do not. I believe that we should.

I think that Graeme Pearson hit on the point that we do not want the whole process of law in the court system being delayed because issues have been raised about whether the judge has an interest that might be regarded as meaning that they ought to recuse themselves from the trial and the whole thing becomes bogged down.

I am not persuaded by the issue, but I thought that the way in which the consideration of the petition developed was less than satisfactory.

We heard from Moi Ali, who said that she did not know why there was not a register, but that

“it has long been the case in this country that particular groups are harder to challenge. In the past, one such group was the medical profession. I had a look at the website of the General Medical Council—the regulator of doctors. Although I think that it would have resisted this strongly in the past, it now publishes registers of interests, records family relationships of its council members and so on.

At one time, it was difficult for politicians to take on that group. It is perhaps difficult to take on the judiciary, because judicial independence is always mentioned. As I said, that is a cornerstone of democracy, but because there has been no separation of accountability and independence, it is easy for the judiciary to say, ‘We are independent, so don’t interfere in that.’ Unless independence and accountability are separated, legislation will continue to include no requirement for more openness and transparency.”—[*Official Report, Public Petitions Committee*, 17 September 2013; c 1612.]

I thought that that was quite a powerful argument.

The Lord President’s response was essentially, “Get your tanks off my lawn.” It was all very well for the Lord President to send in a written response, but I thought that the best way for him to allow us to explore the issues raised by the petitioner effectively—and, in fact, to give weight to his argument—would have been to have his argument tested by the committee.

From briefings that I have heard from the Law Society of Scotland, it seems that it does not think that the Public Petitions Committee of this Parliament is a grand enough committee to command the Lord President’s attention. The suggestion seemed to be that if it was a subject committee such as the Justice Committee, that would be fair enough, but all manner of petitions could come forward and the Lord President would have to present himself. That is not the way the Public Petitions Committee conducts itself at all. We thought that the petition made a serious argument that ought to be examined.

In language devoid of any colour—which members know that I usually employ—I said at the committee that the impression given was that the Lord President was part of an

“Edwardian-establishment disdain for the right of the hoi polloi—as ... he sees it—to have any understanding of such matters”

and that

“the swish of judicial ermine and velvet should cow into deference the public and the legislature in relation to our right to understand the issues.”—[*Official Report, Public Petitions Committee*, 17 September 2013; c 1616-17.]

My colleagues on the committee will speak for themselves, but that is what I think many of them found slightly unsettling and unacceptable.

When petitions are lodged that, as Graeme Pearson said, raise the perception of a problem but there is a very cogent argument, which the minister articulated, why there is no need for further action, the best approach is not to suggest private meetings off the record with members of the committee to explore issues within a limited mandate and framework. The appropriate way to proceed would have been for the Lord President to come to the committee and, in a responsible environment, put his case on the record and allow us to test it. In all likelihood, we would have agreed with the principle that he articulated and would have advocated that that is the right approach. However, we were not able to do that, which is why we are having this debate today. That illustrates that, in the modern age, one cannot simply say, “We are part of something that is independent. We are not accountable to the Parliament on these matters and therefore there is no need for us to make a public defence of our

argument.” I do not have a problem with the position taken, but I have a big problem with how we have got to the point that we are at today.

The Deputy Presiding Officer: We now come to the open debate. I ask for speeches of four minutes, but I have a little bit of time in hand for interventions.

16:02

Angus MacDonald (Falkirk East) (SNP): I welcome the opportunity to contribute to this debate and, not least, to congratulate the petitioner, Peter Cherbi, on being bold enough to bring the petition to the Public Petitions Committee. Not many people are willing to take on the might of the judiciary.

As we have heard, the petition calls for all members of Scotland’s judiciary to be subject to a full and publicly available register of interests. It envisages the creation of a single, independently regulated publicly available source containing current information on judges’ backgrounds and financial interests, details of recusals and any other information that is routinely lodged in registers of interests across all walks of public life in the UK and further afield.

Given that we as elected members and legislators are expected and obliged to declare our interests, I do not see why members of Scotland’s judiciary should be treated any differently.

During our deliberations, the committee learned of a similar proposal in New Zealand, which the convener of the committee mentioned. A member’s bill sponsored by Green MP Dr Kennedy Graham was proceeding through the parliamentary process as we were deliberating on the petition. However, I believe that the bill was subsequently withdrawn following agreement with members of the House of Representatives and the New Zealand Government.

Dr Graham explained to our committee that the motivation for the bill was

“to seek to ensure that judges are assisted through institutional means, rather than relying purely on personal discretion & judgement, in determining whether they should handle a case or not. The bill would protect them from accusations or insinuations that their judgement was poor.”

It was envisaged that it would

“promote ... confidence in the judiciary”,

especially if it showed that the judicial system was above reproach.

Any member of the public watching the debate this afternoon would be entitled to ask, “What on earth is wrong with that?” As I have said, I would be inclined to agree with them.

However, it would seem that the judiciary is not exactly keen on the idea of such a register. I put on record my disappointment, as the committee as a whole did, at the lack of engagement between the full committee and the Lord President, Lord Gill. Given the spirit of openness and transparency that we in the Parliament so readily hold in high regard, it was a clear snub to the committee when Lord Gill refused to appear in public. If a register of interests is to be resisted by the judiciary, it must be borne in mind that nothing undermines public confidence in a nation’s institutions and procedures more than a suspicion that a public servant may have suffered a conflict of interest arising from, for example, a financial engagement in a particular dealing in which one was professionally involved.

I am not suggesting that anything untoward is going on anywhere, but surely, to ensure that no such suggestions can ever be made in future, we must look at creating a system that gives the general public peace of mind. Thankfully, accusations of bias are rare, but situations of perceived bias are not unknown.

I stress, in response to Jackson Carlaw’s comments, that the matter before us is not about having confidence in the judiciary but about ensuring that everything is above board. I note the minister’s comment that the current safeguards are sufficient and her observation that no amendments on the subject were lodged in advance of Tuesday’s stage 3 debate on the Courts Reform (Scotland) Bill. However, as the decision is for Lord Gill, an amendment to that bill should not be required.

If we as elected members have to register and declare our interests, I see no reason why members of Scotland’s judiciary should not be subject to a full and publicly available register of judicial interests.

I once again congratulate Peter Cherbi on bringing the situation to the attention of the Parliament, and I hope that the Scottish Government and the Lord President will reconsider and take the petitioner’s suggestions on board, which would help to allay concerns among the wider public in Scotland.

16:06

Anne McTaggart (Glasgow) (Lab): One of the Scottish Parliament’s fundamental values is transparency in government for the benefit of the Scottish people. The petition is an important step towards upholding the simple value of honesty.

At its core, the petition calls for the creation of a register of interests for members of the judiciary in order to ensure fairness in our courts. With a register, potential biases can be immediately

identified and the potential for a conflict of interest is entirely avoided in bringing cases to court. Such a process would result in simple, fairer and more transparent courts, where the concern of possible bias is no longer a concern.

Although I fully support the petition, I believe that we cannot ignore the need for appropriate checks and balances in order to protect the personal information from being used for other, inappropriate purposes. In addition, in seeking to protect the privacy of judicial officials, the register should not be available for use by a member of the public to contact a member of the judiciary. The information that is collected for the register should be provided explicitly for identifying possible bias with the goal of promoting fairness and accountability, and not for violating the privacy of a judge.

I have always been committed to promoting transparency and accountability in government, most recently in supporting the lobbying transparency bill, for which my colleague Neil Findlay lodged a proposal for a member's bill in 2012. The bill, which attracted support from members on all sides of the Parliament, was a great step forward in the direction of open government.

However, more than a year after the Scottish Government said that it would introduce another bill on that subject, we are still waiting for a proposal. Just as the goal for a register of interests is not to scrutinise the judiciary but rather to promote fairness, the goal of Neil Findlay's bill was not to make it harder for charities to promote good causes but to increase transparency with regard to who is lobbying parliamentary officials.

Having worked on Neil Findlay's bill when it first came before the Public Petitions Committee, I am a keen advocate of its aims. It promotes the simple democratic values of fairness, transparency and accountability. In Scotland, claims continue to emerge of trials that have been unfair as a result of religious, ethnic or national bias. As long as those claims continue to exist, it is the Parliament's job to promote fair government.

In conclusion, I declare my support for the petition and encourage support from all the other MSPs.

16:10

David Torrance (Kirkcaldy) (SNP): Like others, I would like to take this opportunity to thank Peter Cherbi for submitting the petition in question and the committee clerks for all their work.

The debate over whether to introduce a register of interests for the judiciary in Scotland is an intriguing one. It is true that there is currently no

such register and that alternative arrangements are in place that arguably compensate for that. However, it is also true that registering one's interests is now commonplace among all high-office public service personnel and that doing so increases transparency and accountability to the people we represent and serve. That is the point on which I would like to focus and is the main reason why I support the petitioner's call for a register of interests to be introduced.

In Scotland, we take great pride in our legal system, and the integrity of our judges and sheriffs is paramount. We place a great deal of trust in our judiciary and things such as the judicial oath, the statement of principles of judicial ethics and the Judiciary and Courts (Scotland) Act 2008 help us to have confidence that that trust is well placed. However, regardless of the level of trust that we have in the judiciary, situations can nevertheless arise that might lead us to question the actions of one of its members and to doubt whether they have acted appropriately when exercising individual discretionary judgement.

The committee's correspondence from the Judicial Complaints Reviewer, Moi Ali, indicates that allegations of judicial bias, albeit unsubstantiated, have been made by members of the public. Implementing a register of interests would certainly reduce the scope for such doubt and would help to ensure maximum public confidence in our judiciary.

I am aware that every other category of public servant of high office, MSPs and MPs included, is required to complete a register of interests. That therefore begs the question why the judiciary should be treated as an exception. Exceptions tend to create suspicion, which we should seek to avoid. Completing a register of interests is not an overly arduous task and it is one that, in my view, is worth doing to ensure transparency and accountability in our legal system. I would be surprised if there were many members of the judiciary who did not share that view.

I understand that it is currently at the discretion of individuals to decide whether to recuse themselves from a case. Under those circumstances, I can appreciate that judges might be viewed as having too much autonomy over deciding when to recuse. I am pleased to learn that there is now a system in place whereby recusals made by judges and sheriffs are routinely recorded, and that that information is now publicly available via the judiciary of Scotland website. I thank the Lord President for initiating that action. However, although that development has been widely welcomed, I understand that it does not go far enough to address the petitioner's concerns, as it does not disclose occasions on which a judge

decides not to recuse themselves despite the existence of a potential conflict of interest.

Although I understand that conflicts of interest are on occasion declared in open court prior to taking on a case, the introduction of a register of interests would provide a more consistent and sound basis on which to move forward.

The ultimate priority must be transparency and accountability to the public. It seems to me, after examining the evidence provided to the committee thus far, that there is a strong case for introducing a register of interests with that purpose at its heart. Considering that that is a standard requirement for all others in positions of high public office, I believe that that is the right thing to do. That said, care must be taken to ensure that minimal inconvenience is caused to judicial office-holders in terms of the time and effort taken to complete and update a register, and to alleviate any ill effects that they may be put at risk of by doing so.

I look forward to hearing the views of the other speakers in today's debate, as it is important for us to gain as many perspectives as possible on the issue in order to ensure that a decision is made in the best interests of the public while protecting the privacy of members of our judiciary.

The Deputy Presiding Officer: We still have a bit of time in hand at this stage, so I can give the next four members a maximum of five minutes, if they wish.

16:14

Neil Findlay (Lothian) (Lab): The referendum campaign that we have just had has developed in people a new and healthy interest in all things political, which has to be warmly welcomed. However, with that comes increased scrutiny of politicians, political institutions, the decision-making process and those who make decisions on behalf of the people. The public have every right to know what is going on in their name and to hold institutions and people to account for their actions.

This particular institution, which claims to be open and accessible and transparent in all that it does and to operate with the values of accountability, openness, power sharing and equal opportunities, has a long way to go until it and the society and institutions that we legislate over can claim to live up to those values. According to the mace in the well of the chamber, we are supposed to operate with wisdom, justice, compassion and integrity, and the proposal that we are discussing is part of a wide range of changes that we need to make if we are to live up to those supportable aims.

I fully support the proposal for a register of interests for members of the judiciary. After all, we

have the right to know whether those who are involved in determining whether a man or woman loses their freedom have any financial, business, social, political or other relationship that could influence any decision they might make. Currently there is no compulsion to declare such an interest and we rely on what is known as the fair-minded observer test. That, to me, is wholly inadequate. Through history, we have heard allegations of religious, class, financial and political bias or of members of certain organisations being helpful to each other during trials. I can think of many industrial and other disputes that have gone to court where claims of bias and collusion have been made—and, I believe, with justification.

That situation has to end, and we should have a register with clear rules that leave no one in any doubt about who and what should be registered. Is it really a surprise to people that the legal establishment does not want such a register, and is it not an outrage that Lord Gill had such contempt for this Parliament that he refused to attend a particular meeting? Does that not make people even more suspicious of his motives?

Let me give the chamber some more examples of how our politics maintains its secrecy. When I recently asked a cabinet minister a question about who had advised him on certain key areas of policy, I was told that that information could not be revealed because information about a third party would be provided. We cannot find out, for example, whether people with links to the fracking industry advise the Government on energy or whether people with financial interests in the drugs industry advise the Government on new treatments. Those are very important issues. I am not saying those people are advising the Government but we simply do not know and cannot find out, and I believe that that is fundamentally wrong.

What about when the Government appoints people to conduct inquiries or to write reports that are paid for by the public purse? Why are those people picked? Is it because they are experts or particularly knowledgeable in their field, or are there other influencing factors? How are contracts secured and why are they won? Who influences changes in Government policy, and why? The public should, if they wish, have the right to know what is being done in their name.

What about the workings of this Parliament? Why do our committees discuss so many issues in private session when there is no reason to? For example, why can we not find out why the Health and Sport Committee refused to invite the former Auditor General for Scotland to give evidence on the budget? Who stopped him coming? Why can we not find out these things? Surely the public have a right to know.

As Anne McTaggart pointed out in her speech, 16 months ago the Government said that it was minded to legislate on my proposed lobbying transparency bill. To date, however, no legislation has come forward. Why not? I say to the Government that if that legislation is not in the legislative programme, I will bring my bill back to Parliament and then we will see this Parliament's commitment to openness and accountability.

We need to do much more to make our society less secretive and less closed, and I think that the register that we are discussing is just one step towards that end. I, for one, give it my full support and urge other MSPs to do the same.

16:19

Joan McAlpine (South Scotland) (SNP): The subject is exactly the sort of matter that the Parliament should debate, and it is testament to the Public Petitions Committee that it has brought the issue to the chamber.

I am naturally inclined to support a register of judges' interests. I understand the need to enshrine the independence of the judiciary and I understand Lord Gill's decision to decline the committee's invitation because, although that decision understandably drew criticism, one could argue that the judiciary should not be subject to political pressure. However, I tend to agree with Jackson Carlaw that, in this instance, Lord Gill should have come to the committee to argue his case and to show that the judiciary is not a law unto itself.

David Stewart: Does the member share my view that, on one level, there is nothing new about the proposal because, prior to 2009, law lords had to declare an interest, as they were members of the House of Lords? In some senses, we are asking for a reintroduction of something that was well established in Scots law.

Joan McAlpine: Yes, I agree—that is a fair point.

Perhaps it is because I am a former journalist that I naturally lean towards increased transparency in all areas of public life. The committee convener outlined the need for that in his opening remarks. I take great pride in the fact that there is more transparency in the Scottish Parliament, for example, than there is at Westminster.

Neil Findlay: Will the member take an intervention?

Joan McAlpine: No, thank you.

However, I have considered the safeguards that ministers have outlined today, in particular the judicial oath, which I am sure all our judges take

very seriously indeed. I do not think that many members of the public know about the judicial oath or what it entails. I am interested in knowing more about the process that kicks in if someone is suspected of breaking the judicial oath. Has that ever happened and what are the consequences?

I read with great interest the Lord President's letter to David Stewart MSP. I was not particularly convinced by the passage on practical considerations, in which the Lord President suggests that it would not be possible to identify all the interests. The subtext seems to be that it is a bit of a hassle. Well, yes, it is a bit of a hassle. It is probably a bit of a hassle for MSPs, too, but it has to be done. I was more swayed by the passage on unintended consequences in which the Lord President says:

"Consideration requires to be given to judges' privacy and freedom from harassment by aggressive media or hostile individuals, including dissatisfied litigants. It is possible that the information held on such a register could be abused. These are significant concerns. If publicly criticised or attacked, the judicial office holder cannot publicly defend himself or herself, unlike a politician."

I thought that that was a fair comment.

I do not think that the matter of a register of judges' interests will disappear. We have seen the progress that is being made here and in New Zealand as a result of the debate being opened up, even though that is short of establishing a register. It is important that all national institutions continue to revise their procedures so that they retain public confidence. It is easy to see how public confidence can be lost if that is not done. The Westminster Parliament expenses scandal blew up precisely because of a lack of transparency in the system. I recall that there was a belief that, if MPs were completely transparent about what they claimed, that would somehow open them up to too much scrutiny, which would be a bad thing. In the end, MPs really came a cropper because of that.

Similarly, the claims of historical child abuse by powerful establishment figures at Westminster and how they may or may not have been dealt with by the authorities at the time surely demonstrate that the way that things were done 30 years ago is not the way that we should do things now. Therefore, I very much hope that the Lord President is paying attention to the debate.

We have to move with the times. It is a recurring feature of tabloid newspapers to draw attention to judges who do not move with the times. One particularly famous incident was in a court case down south when the footballer Paul Gascoigne was taking to court someone who had written an unauthorised biography. The judge clearly had no idea who Paul Gascoigne was, as his lawyer had

to explain that he was a famous footballer, to which the judge replied, "Rugby or association?"

I gently suggest to the Lord President, in whose gift it is to set up a register, as we cannot legislate for it in the Parliament, that he should be mindful of the need for the judiciary to move with the times, along with every other public institution, in order to retain the confidence of the public.

16:24

John Wilson (Central Scotland) (Ind): The petition and today's debate highlight the important role that the Public Petitions Committee plays in this Parliament.

The issue under discussion is an easy and relatively straightforward subject, as many members have said. The resistance to having a general register of judicial interests seems, to my mind and to many others, to come from ingrained conservative forces, and I am clearly not talking about Mr Carlaw in this instance. However, his impersonation of one of his colleagues may highlight the conservative nature of the legal profession.

The Public Petitions Committee has attempted to engage in a positive manner with all those identified by the petition. The same cannot be said of all those who have had an input on the public record. The Lord President, Lord Gill, declined to accept the committee's invitation to give evidence in respect of the petition on the ground of "constitutional principle", with particular reference to section 23(7) of the Scotland Act 1998. Although that might be considered by some to be a reasonable response, it is undermined by the fact that Lord Gill has appeared before other committees of this Parliament.

In principle, there is good practice taking place in Scotland. Elected members such as councillors and members of this Parliament have to make undertakings in their own registers of interests, so why there is a lack of positive engagement is essentially a mystery to me, especially as the then Judicial Complaints Reviewer, Ms Moi Ali, supported the petition both in correspondence and in excellent oral evidence to the Public Petitions Committee.

We already know, because it has been reported widely, that arrangements to publish details of the shareholdings of those on the Scottish Court Service board are in place, and I welcome the information that was discussed earlier relating to recusal by sheriffs and judges in cases on which they have decided that they cannot sit in judgment.

Lord Justice Neuberger, president of the UK Supreme Court, said in a speech on 26 August

2014 to the Hong Kong Foreign Correspondents' Club:

"The rule of law also requires the honest, fair, efficient and open dispensation of justice. And therefore there is no hope for the rule of law unless we have judges who are independent, honest, fair, and competent, and who are seen to be independent, honest, fair, and competent."

Clearly, we must ask why we cannot have a register. No doubt the associated media coverage of Lord Gill's non-appearance at the Public Petitions Committee has led to him being given the title of Lord No-No. That is not something that I particularly welcome, although, quite frankly, it seems to have a degree of merit for an individual who spent six days in Qatar to give a speech about transparency and judicial regulation that lasted one hour, but who could not find the courtesy to accept an invitation from a mandatory committee of this Parliament.

I welcome the opportunity to raise awareness of the petition and of the petitioner's work in relation to it, which could be dismissed by some unkind types as a boring constitutional matter. However, as others have said in today's debate, linking it to registers of interest in other areas clearly highlights the work that the Parliament must do to ensure that everyone, no matter who the public are dealing with, is held in high regard. A register of interests for judges is an area in which we could move forward and build more confidence in the system that we have in place.

In the final paragraph of the speech that Lord Gill gave in Qatar, he said:

"One drawback of a jurisdiction steeped in tradition is its slow reaction to change and to modernise."

Lord Gill should reread his own words and reflect on that speech, and maybe he could give the same speech in Scotland and bring the judicial system up to a standard that we would all like it to hold.

The petition clearly highlights the work of the Public Petitions Committee, and I look forward to more challenging petitions being heard by the committee and debated in the chamber.

16:30

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I congratulate Peter Cherbi on his petition. Whatever position we take on its substance, it is opportune to debate the issues around it because, far from being trivial matters of process, they go to the very heart of trust in the justice system. For the record, I am speaking in the debate not, in any sense, as the convener of the Standards, Procedures and Public Appointments Committee but as an individual member of the Parliament.

It was with grave misgivings that I heard Jackson Carlaw introduce his speech by saying that he really had nothing to say. I wondered whether the debate was going to turn out to be one of those real political debates that are over not when everything has been said but when everybody has said it. However, so far, every member has made an individual contribution, which is very good.

I intervened on Graeme Pearson for a particular reason. I tried to consider when my entry in the members' register of interests has come into play. I put many things into it voluntarily, as many of us do, because I think that even though I am not required to mention them, they are things that might matter. For example, I have declared a shareholding in a major bank voluntarily, although it is below the level that requires to be registered, as that touches on lots of things.

When we talk about the interests and connections that a judge might have that would cause recusal, I suspect—but cannot prove at this stage—that finance would be the least of them. I would guess that such interests will almost certainly be relationships, membership of clubs and attendance at events.

David Stewart: As always, the member is correct. The 14 recusals so far have been, by and large, about relationships—in other words, a sheriff knows a witness. The member is right to suggest that there have been very few financial issues involved in those 14 recusals.

Stewart Stevenson: I am obliged for that. I did not know that, but the committee convener has put flesh on the bones of my assumption. We will see how it pans out when there are more recusals.

Of necessity, we cannot anticipate and put in a register everything of that character that will come up, or our whole lives would have to be on the register. I have been pursuing genealogical research into my family tree for more than 50 years and have 4,600 people in my family tree. How could I put them all on the register meaningfully? We must be careful, therefore, not to imagine that this is the silver bullet.

John Wilson: Will the member take an intervention?

Stewart Stevenson: I want to cover one or two things. If possible, I will come back to Mr Wilson.

The issue in respect of judges is not new. Clause 19 of the Union with England Act 1707, which is one of the bigger clauses in the act, is about the appointment of judges, and it states:

“That no Writer to the Signet be capable to be admitted a Lord of the Session unless he undergo a private and publick Tryal on the Civil Law before the Faculty of

Advocats and be found by them qualified for the said Office”.

Worrying about whom we appoint as judges is not new.

That takes us to the heart of the matter. The Romans had a saying: “Quis custodiet ipsos custodes?”—who will guard the guards? If judges misbehave or do not come up to the required standard, how do we deal with that? Inevitably, there must be a judicial process exercised by whomsoever grips that one.

We have to appoint the right people, because I do not think that we can prescribe and describe all the circumstances that may touch on their ability to make decisions. That is not to say that having a register of financial interests would be without value; I just do not want colleagues to imagine that it would really do much more than scratch the surface of the issue.

We all have interests. The Cabinet Secretary for Finance, Employment and Sustainable Growth set out a budget today. Will he buy a house in the future and, therefore, be affected by the decisions that he has brought to Parliament on taxing transactions on housing? The answer is, of course, yes. The real test is whether he is doing anything that does other than affect the generality of people—he must not instead do things that affect him or a particular group of which he is a member. That is the kind of test that judges must have in their mind at all times.

I close, Presiding Officer, by saying—

The Deputy Presiding Officer (John Scott): Yes—you must close now.

Stewart Stevenson: I encourage Lord Gill and his successors to think about recalibrating their relationship with Parliament. However, when my colleague Joan McAlpine talked about being a journalist, I immediately reflected that journalists are entitled to, and properly do—

The Deputy Presiding Officer: You really must close.

Stewart Stevenson: —keep their sources secret. Therefore, not everything can be in the public domain. Ultimately, we have to choose the right people. We have to trust them, and we have to treat them extremely harshly if that trust is not fulfilled.

The Deputy Presiding Officer: Pour encourager les autres.

We now move to the closing speeches.

16:35

Jackson Carlaw: I will deal with the contributions that have been made to what has

been an interesting debate. Angus MacDonald said that Lord Gill had delivered a snub to the Public Petitions Committee. I think that what he did was more of a snub to the Scottish people. The committee is the Public Petitions Committee of the Parliament. The whole point of it is to allow the petitions that are raised by members of the public to receive a proper airing, and for the arguments to be tested. In a sense, we were not able to test the arguments of the Lord President, because he would not engage.

John Wilson is absolutely right. I have here a copy of the 16-page speech that the Lord President gave in Qatar, incorporating the very issues that we addressed. Had the committee known, we could have applied to the parliamentary authorities to go to Qatar to hear the speech in person and tackle the Lord President there. If he did not come to the committee, the committee could have gone to him.

Neil Findlay: I wonder if Lord Gill has reflected on his non-appearance and on how he feels when someone does not turn up to his court.

Jackson Carlaw: I shall not stray there, although I am tempted.

Anne McTaggart articulated, as a number of members did, why there is a perfectly balanced argument in favour of a register. David Torrance talked, too, about how they are commonplace. He went on to touch on the subject of the register of recusals, which David Stewart also mentioned. That arose as a result of informal conversations that David Stewart and the committee's deputy convener had with the Lord President. For that, I suppose that we must be grateful.

David Torrance said, however, that the register does not meet the petitioner's concerns. I would say to him that the job of the Public Petitions Committee is not necessarily to uphold the petition or the petitioner's concerns; it is to evaluate the evidence underpinning a petition and then to form a judgment. Again, we have been slightly prevented from our obligations in that respect.

Neil Findlay spoke about the perception of transparency, and he listed various things. Therein lies some of my concern. Were it the case that judges had to register their religion, and if that was thought by people who were appearing before a judge to be a reason to suggest that there might not be impartiality in the proceedings, we would paralyse the court system with endless reasons to object to the appointment of any particular judge.

I hope that she will not find it inexcusable of me, but I found that I agreed almost entirely with the points that Joan McAlpine made in her speech. She talked about the letter that Lord Gill presented, which discussed the practicalities and consequential issues. The consequential issues

that he identified were the perfectly legitimate counterargument to the natural assumption that, in the modern age, there should be a register. I again say that, had Lord Gill subjected his reasons to the open test of committee discussion, which would have been perfectly friendly and informed, they would, most likely, have persuaded the committee that, on balance, they represented the correct position.

John Wilson referred to my doing an impression of one of my colleagues. He might suggest that I did that, but I could not possibly recognise it as such.

Stewart Stevenson spoke about the modern argument in all this but then, to my astonishment, I heard this Roman—whoever it was from all those years ago—being quoted for a second day in a row in the Parliament. It was exactly the same quotation. That somewhat brought back the fact that nothing is modern and everything is timeless when we are dealing with such judgments and issues.

I am not, on balance, persuaded that a register is necessary. I refer back to the safeguards that exist. Mind you, I would point out that we, too, swear an oath, but we nonetheless still subscribe to a register. There is a balance, but that balance, that argument and that judgment are much more likely reliably to stand the test of public scrutiny if they are subject to proper public debate, and I feel that we are having this debate today because we have not been able to provide that.

16:40

Elaine Murray (Dumfriesshire) (Lab): I assure members that this will be the last time that they have to hear from me this week, which I am sure is a relief to everybody.

The Public Petitions Committee is to be congratulated on its tenacity in pursuing the petition, because obstacles were put in its way and the committee continued to pursue the petition over a substantial period of time.

I was completely unaware until the debate was scheduled that members of the judiciary are not required to publish a register of their interests. If I had been aware of that earlier, I might have added it to my list of unsuccessful amendments to the Courts Reform (Scotland) Bill. I am sure, had I done so, that the minister would have informed me—as Angus MacDonald said—that it was a matter for the Lord President and not for the bill.

Dave Stewart, Roseanna Cunningham and others have reminded us that there are three safeguards—the judicial oath, the statement of principles of judicial ethics and the complaints procedure—and that members of the judiciary can

recuse themselves from a case. “Recuse” is another word that I have added to my vocabulary since joining the Justice Committee. I do not know whether I will have any reason to use it other than about the judiciary, but they are able to recuse themselves and that information is being published as of April. As others have said, as that publication of reasons for recusal is added to, we may get more of an idea about why judges recuse themselves.

David Torrance and others drew a parallel with members of this Parliament. As Jackson Carlaw said, we are required to take an oath or affirmation, we have a code of conduct and complaints about us can be investigated by the Standards, Procedures and Public Appointments Committee. I do not think that any of us believe that those three safeguards would be sufficient to ensure public confidence, and that is what is important. We are required to update our entry in the register of interests and to declare gifts and whether we employ close relatives. We are also required to register any new interests within 28 days of those interests arising. As Joan McAlpine said, it might be a bit of a hassle, but we all recognise why it is important that we are required to do so.

The minister suggests that we are required to do so because we are accountable to the public but, as Neil Findlay said, the issue is about the scrutiny of decision-making institutions whose decisions can seriously affect members of the public. When we consider it in that context, a register of interests for the judiciary becomes more important.

Local councils are also required to maintain an updated register of interests of councillors. I do not know how all councils operate that but when a councillor in Dumfries and Galloway has a registered interest in part of the business of a meeting, they cannot even attend that part of the meeting, still less take part in discussions. They are not even allowed to sit there glaring at their fellow councillors; they have to leave the room.

I do not think that any elected member resents those requirements on us. It seems absolutely right that there is transparency—an issue that Anne McTaggart raised. It is very important that any personal or financial interests that might possibly affect our decisions are published and that they can be easily accessed by the public so that they can check on them. The register of members’ interests is online so it is easy for the public to check whether we have any particular interests.

As was drawn out in the committee discussions, it is not just politicians who are required to register their interests; members of boards of public agencies such as the Scottish Police Authority and the Scottish Ambulance Service are also required

to register their interests. In fact, three judges sit on the board of the Scottish Court Service and their interests have to be registered, so, in a sense, that begs the question, why not others? As Dave Stewart pointed out, members of the House of Lords have to register their interests and therefore, prior to the installation of the Supreme Court, the law lords were expected to publish their interests, so why must the situation differ for judges?

I realise that there may be security issues around litigants who are unhappy about judgments. However, a register could surely be drawn up in such a way as to protect certain information. To a certain extent, we are protected. We may have constituents who do not much like us or who are upset about what we have done or not done in pursuance of their cases, but there are safeguards in our register and they cannot necessarily find out where we stay and that sort of thing. Surely we would be able to do the same sort of thing for judges.

It is the case, of course, that the judiciary of Scotland are a small band of people and many of them originate from the same strata of society. People are suspicious of the old school tie, who people’s friends and family are and financial relationships. Also, as other members have said, membership of certain organisations can be suspected of being influential. The more that such information is in the public domain, the more people can be assured that such matters do not affect how judgments are made.

In the words of Moi Ali, who stood down as the Judicial Complaints Reviewer this summer after three years’ service:

“Given the position of power held by the judiciary, it is essential not only that they have absolute integrity—but crucially, that they are seen to have absolute integrity.”

Therefore, the issue is not that anyone doubts the judiciary’s integrity, but that the public need to see that integrity.

16:45

Roseanna Cunningham: The debate has given us the opportunity to discuss issues around transparency and conflicts of interest and whether a register of judicial interests would address those matters. However, I sense that much of the debate has been about the process. Members will forgive me if I do not get too drawn into that aspect of the discussion—it is not really for me to intervene in committee procedures or the calling of witnesses. I am sure that if concerns are expressed about that they might be taken up in another place.

The debate also ranged rather more widely than the motion might have otherwise suggested. That is understandable. We have heard differing views

expressed about the need for a register of judicial interests. As I said, some contributions went very widely, indeed. An exchange of views is always welcome.

We all recognise the importance of the need to ensure judicial independence, accountability and transparency. However, as I said in my opening remarks, key safeguards are already in place to ensure the judiciary's independence and accountability. To repeat, those important safeguards are the judicial oath; the "Statement of Principles of Judicial Ethics for the Scottish Judiciary", which was issued by the Judicial Office for Scotland in 2010; and the Judiciary and Courts (Scotland) Act 2008. The debate has given us the opportunity to put on the record that those safeguards exist.

We have seen from the debate that, if the Lord President was to introduce a register, a wide breadth of interests may need to be declared. As raised by a number of members, including Stewart Stevenson and Graeme Pearson, material relationships may in many cases be more relevant than pecuniary interests.

I think that I am right in saying that it was David Stewart who described a situation whereby a judge had to recuse himself because he had been at the same social event as one of the key lawyers in the case. I do not want to misrepresent what he said, but that is my recollection; what he said was along those lines. Frankly, if we took that approach too far, either we would have to cloister judges permanently or no cases would ever be heard, because the way in which our social relationships work in Scotland makes it almost possible to avoid that happening on a number of occasions.

David Stewart: I understand the minister's point, but will she say something about the point that I have made a couple of times that we are not discussing a new issue? Before the Supreme Court, law lords registered their interests day and daily for generations. The assumption is that all this is new; the issue is not at all new.

Roseanna Cunningham: Perhaps the member will allow me to get into my speech, because I want to return to that point.

We have also heard that the Lord President is taking action to increase transparency. The register of judicial recusals recently set up by the Scottish Court Service is an excellent example of that. Over time, that will give us a better understanding of how that process works.

I am sure that the Lord President will read the *Official Report* of the debate and members' speeches with interest. I will not be drawn into a discussion of his decision about attending the committee. However, as referred to by Joan

McAlpine and others—I am not quite sure if I remember who—he has warned that the introduction of a register of judicial interests could have unintended consequences. He said:

"Consideration requires to be given to judges' privacy and freedom from harassment by ... media or ... individuals, including dissatisfied litigants."

A point that no member has raised is that, if publicly criticised or attacked, a judicial office-holder cannot publicly defend him or herself, unlike a politician. We have the opportunity to respond to criticism; a judge would not. They do not have the same right of reply as we have.

I must ask what would be included on a register. If we are agreed that it is far less likely to be financial interests that create problems, the register would somehow have to encompass social, familiar and other relationships. A register that included those relationships would be difficult to compile. Family trees, friendships and all sorts of organisations and affiliations would have to be included. Neil Findlay seemed to suggest that even religious affiliation should be included. How on earth would one know in advance what might cause a problem in a case that was as yet unseen?

It is interesting that all members who have spoken have avoided making reference to a register in anything other than very general terms, although it is clear that it is assumed that any declaration would go beyond financial interests. I have set out some of the issues that would arise if such a register were given closer consideration.

I return to David Stewart's point about the situation in the House of Lords prior to the creation of the United Kingdom Supreme Court. As I understand it, declarations were confined to financial interests and there was not the kind of register that members have discussed this afternoon. Furthermore, when the Supreme Court was set up in 2009, it was decided that the financial register would not be continued. Instead, a code of judicial conduct was drawn up. The register to which David Stewart referred was not analogous to the register that members have been discussing. We should understand that.

We should also take heed of the outcome of the report of the Council of Europe group of states against corruption—GRECO. I reiterate that that is an important objective assessment of where we are in relation to the judiciary in Scotland and the United Kingdom.

I am aware that other people take a different view on the need for a register. The former Judicial Complaints Reviewer thought that a register would increase transparency and public trust.

As I said, it would be for the Lord President to establish a register of interests, in his capacity as head of the Scottish judiciary. However, the Government does not consider that there is currently evidence that the existing safeguards are not effective. We do not consider that a register is necessary. Indeed, some of the issues that members have raised point us to how difficult it might be to compile the kind of register that people think might be appropriate.

A number of members referred to the register of interests of MSPs. However, the situation is different, because we are directly accountable to the electorate. That is why the register exists—and we are not required to declare religious affiliation, our circles of friends and relatives, and all the social relationships that can give rise to some of the suspicions in respect of judges.

The Deputy Presiding Officer: I regret that I must ask you to close.

Roseanna Cunningham: The debate has presented an opportunity to consider all the issues. I assure members that we will continue to keep the issues under review. However, our current position is that a register is not necessary.

The Deputy Presiding Officer: I call Chic Brodie to wind up the debate on behalf of the Public Petitions Committee.

16:52

Chic Brodie (South Scotland) (SNP): This has been an interesting and necessary debate, as Joan McAlpine pointed out. I anticipated that it would be.

I make it clear that the intention of the petition—and the debate—was not to impugn the independence, integrity or credibility of the judiciary. Indeed, the very opposite has been clear from members' speeches. Members talked about openness and transparency. They talked about perceptions, clarity and trust, and the need for change. Their comments reflected concerns of members of the Public Petitions Committee.

As members said, the debate arose from the petition that Peter Cherbi lodged, which called for a register of interests for members of Scotland's judiciary. The petition called for a register of pecuniary interests, and it suggested amending legislation so that declarations could be made in relation to general interests and hospitality.

It is perhaps instructive to consider the history of the position vis-à-vis the Parliament's power to call for witnesses and—importantly—documents. Under section 23(7) of the Scotland Act 1998, the Parliament

“may not impose”

a requirement in that regard on

“a judge of any court”.

From reading the *Hansard* of debates on the Scotland Bill, it seems that there was little debate about the rationale for exempting the judiciary, although the current Advocate General for Scotland suggested at the time that the Parliament should be able to compel witnesses to attend and produce documents.

The provision was intended to protect the judiciary's position in the constitution. The impartiality of the judiciary in Scotland would be secured, and in the event of a potential conflict of interest a judge would necessarily recuse himself or herself from a case. Of course, that relies on the judge himself to determine whether he has relevant interests, but the approach tends to cover all relationships, in the way that the minister described, rather than just monetary and hospitality considerations.

There are some safeguards to ensure judicial impartiality, which might mitigate and temper suggestions of impropriety by members of the judiciary because of a lack of transparency regarding their interests, particularly pecuniary interests.

We have mentioned the judicial oath, in which judges swear that they will

“do right to all manner of people ... without fear or favour”.

There is also the Judiciary and Courts (Scotland) Act 2008, which sets out the rules that may be invoked if it is felt that a judicial office-holder is not acting impartially. Section 28 of that act allows the Lord President to make rules for the investigation of complaints about the judiciary, a matter to which I hope to return briefly.

Thirdly, there is the “Statement of Principles of Judicial Ethics for the Scottish Judiciary”, which was revised in May 2013 and is to be used as a guide for holders of judicial office in Scotland. Enshrined in that document is, perhaps, the basis of the petition and of an understandable perception—or, indeed, misperception—that underpins the petition and gives rise to concern.

Section 4.9 of the statement says:

“it is recognised that a judge may, from time to time, legitimately be entertained by legal, professional or public organisations or officeholders, in furtherance of good relations between them and the judiciary as a whole, or representatives of it.”

What on earth does that mean? It goes on:

“Furthermore, nothing said here should be understood as inhibiting judges from accepting invitations to give lectures, addresses, or speeches of a non-legal nature at dinners, or other occasions, or ... from accepting ... hospitality, tokens of appreciation for their efforts, or appropriate expenses of travel or accommodation.”

That, in itself, is okay but openness and transparency of information would eliminate some of the misperceptions that matter.

In addition to those safeguards, the Council of Europe GRECO stated that it found no “element of corruption in relation to judges”.

However, one might argue that that was not the charge; rather, it was that a register might secure the transparency that would make the group’s evaluations redundant.

The petition raised and raises several questions, none of which requires a defensive posture. For example, the board members of the Scottish Court Service, three of whom are judges, already declare some interests in the SCS annual report. We also understand that the SCS staff are required to register all of their interests. I fail to understand why that cannot be extended to cover the whole of the judiciary.

The Judiciary and Courts (Scotland) Act 2008 set up the role of the Judicial Complaints Reviewer to review the handling of investigations into the conduct of the judiciary. The previous holder of that role—a role that should be much more robust and recognised as important—indicated that, in the interest of general transparency, a register of interests for the judiciary would likely lead to an increase in public confidence and trust—two of the words that I mentioned at the beginning of my speech.

The practice extends not only to the SCS but to the Crown Office and Procurator Fiscal Service, which operates a register of hospitality interests, and to the Scottish Legal Complaints Commission, which publishes a full register of interests and hospitality.

We accept that the petition called for a register of pecuniary interests. It recognised that we would not need to try to capture all of the other concerns that might arise, as the minister said—for example, family relationships—so we accept that it might be impossible to capture all interests that might arise or cause concern. The onus should, rightly, be on the judge or sheriff to declare any relationship interests at the beginning of a case and to recuse themselves appropriately if necessary.

There is concern that a register would have unintended consequences—a phrase that has been used often in the debate—for the judiciary’s freedom and privacy and its freedom from harassment from the media or dissatisfied litigants. Those are concerns, but they are no less so for others in public life, including MPs and MSPs, who may be attacked publicly for non-declaration of interests. Although it is argued that the establishment of a register may have the

unintended consequence of eroding public confidence in the judiciary, it might equally be argued that its absence might have the same effect.

I congratulate Peter Cherbi, the petitioner. I welcome the exchange that we had with the Lord President on the issue, although I wish that it had been in front of all the committee. I suspect that the issue will still be a topic for review and will be, as Stewart Stevenson said, recalibrated. Perhaps the snub to the Scottish people will be recovered.

I am glad that we have had the opportunity to discuss and debate the matter meaningfully.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There is one question to be put as a result of today's business.

The question is, that motion S4M-11078, in the name of David Stewart, on petition PE1458 on a register of interests for members of Scotland's judiciary, be agreed to.

Motion agreed to,

That the Parliament notes Petition PE1458, in the name of Peter Cherbi, on the issue of a register of interests for members of Scotland's judiciary; welcomes the petitioner's efforts to highlight what it considers to be an important matter, and commends the issues raised to the Scottish Government for further consideration.

The Presiding Officer: I know how tough these last few weeks have been for you all, exhausted as you are after the referendum campaign, so take some time out. We will see one another again in two weeks' time, suitably relaxed and refreshed.

Meeting closed at 17:01.

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